



CALLING LINE IDENTITY (CLI) FACILITIES: PROPOSED TELECOMMUNICATIONS LICENCE REVIEW AND POTENTIAL FOR LIMITING TELEPHONE-BASED FRAUD NON-STATUTORY DRAFT DECISION – T-036

SURE (JERSEY) LIMITED –RESPONSE – 24TH JANUARY 2022

Summary

1. Sure (Jersey) Limited welcomes the publication of this non-statutory draft decision (“the consultation”) by the Jersey Competition and Regulatory Authority (“the Authority”) and its decision to proceed with a review of CLI facilities in Jersey.
2. As set out in our response to the Authority’s Call for Information, we strongly support the view that customers should be protected against telephone-based fraud and the inconvenience caused by CLI misuse. Licenced Operators (“LOs”) have a critical role to play in this and we agree that LO licences should reflect this responsibility. We therefore support the Authority’s proposal to modify licences to make explicit LOs’ obligations when providing CLI facilities.
3. We believe that the Authority’s proposed licence condition, as modelled on Ofcom’s C6 General Condition obligation¹, is a good starting point. However, we disagree that this new licence condition alone is sufficient. The new provisions are *very* broad – key terms, such as “invalid” and “non-dialable” are undefined and the Authority’s expectation for how LOs must discharge some of these obligations remains unexplained. Absent clarification, there is a risk that operators will take distinct and inconsistent approaches to compliance, potentially enabling bad actors to avoid defences against telephone-based fraud² and undermining the objective of the new licence condition – to protect customers from telephone-based fraud.
4. In our view, these areas of uncertainty ought to be supplemented by guidance and/or more detailed licence conditions. We believe that this is a straightforward task for the Authority. It can write its

¹ [General Conditions of Entitlement \(unofficial consolidated version\) \(ofcom.org.uk\)](https://www.ofcom.gov.uk/consult/condocs/c6/c6_060708.pdf)

² Sometimes known as producing a Maginot line effect.

own guidance or update the licence condition wording to reflect LO feedback, adopt Ofcom's guidance³ wholesale (where appropriate), or provide the requisite clarity in its Statutory Decision.

5. The optimum time to publish this supplementary guidance is *before* the new licence condition is implemented. This will ensure LOs implement solutions efficiently and that are compliant at the first attempt. Having to update or introduce new solutions at a later date due to subsequent guidance being published will likely be inefficient and expensive, a cost that will ultimately be borne by the customer. Where possible, we ask the Authority to work with LOs and interested parties to develop a comprehensive guidance document that will supplement this new licence condition.
6. Finally, we ask the Authority to clarify how much time it will give LOs to implement these new licence conditions. The amount of time required will ultimately depend on the Authority's expectations for how LOs must comply with the new licence condition. However, we suggest that the Authority give operators at least 12 months to comply.
7. Below, we briefly describe the areas that, in our view, require additional guidance or clarification. We also provide some reasoning for why LOs should be given at least 12 months to implement this new licence condition. For the avoidance of doubt, we fully support the Authority's CLI proposals and work programme. We are providing feedback with the expectation that it will help to create more robust and effective measures to protect customers against telephone-based fraud and CLI misuse.

Guidance

8. We agree with the sentiment of trying to reduce telephone-based fraud by introducing new rules for LOs, and we are very supportive of the Authority's decision to introduce a new licence condition. In our view, a licence condition that clearly sets out the responsibilities of LOs (including the ways in which it must discharge its obligations) and which are adopted consistently by all LOs, should deliver the desired outcomes.
9. Whilst the Authority's proposed licence condition is a good starting point (we agree with each of the obligations set out in the proposed licence condition), it is insufficient in isolation. The Authority has

³ Ofcom's Guidance on the provision of Calling Line Identification facilities and other related services – published May 2019 – found [here](#).

decided not to publish supplementary guidance for its proposed licence conditions, nor require LOs to take account of Ofcom's guidance document when complying with its obligations⁴. We suggest that this is not the best approach. Ofcom's C6 General Condition obligations, upon which the Authority's proposed licence condition is based, were written with the expectation that guidance would define what was expected of operators when complying with their obligations. Absent its guidance, many of Ofcom's C6 General Conditions are vague or open to interpretation, and Ofcom published guidance to its C6 General Condition requirements in May 2019. It therefore follows that, in the event that the Authority uses Ofcom's C6 General Conditions as the basis for its proposed licence condition, similar guidance ought to be provided (including simply stating whether the licence condition requirements should be interpreted in line with Ofcom's guidance).

10. We ask the Authority to rethink its decision not to issue guidance with its new licence condition. Where it is unable to issue guidance, we ask that the Authority provide clarifications on the following issues in its Statutory Decision.

Notification of CLI facilities being unavailable

11. The proposed licence condition would require LOs to inform customers where CLI facilities are unavailable on their service. However, the Authority has not described how and when this information must be provided to customers. At what point and in what medium should LOs notify customers that CLI facilities are unavailable? For example, we note that Ofcom's guidance states that operators are expected to inform their customers at the start of their contract and update them where the situation changes⁵. Is it the Authority's expectation that an LO would discharge its licence condition obligation by prominently stating whether CLI facilities are available or unavailable in the customer's contract? If so, would LOs be required to issue new contracts if the customer's situation were to change? Furthermore, would this obligation to reflect CLI availability in contracts only apply prospectively (that is, to new contracts taken out on or after the implementation deadline) or would it also apply retrospectively (that is, LOs would need to issue updated contracts to existing customers)?
12. We would argue that including this information in the contract, and then issuing new contracts each time CLI facilities became available and not available, is not proportionate or pragmatic. Rather, a more appropriate medium for notifying the customer would be to make this information available

⁴ Calling Line Identity (CLI) facilities: proposed telecommunications licence review and potential for limiting telephone-based fraud Non-statutory Draft Decision – para 4.33

⁵ Ofcom's Guidance on the provision of Calling Line Identification facilities – para. 4.2

during the customer's order journey (e.g. on the LO's website) and then notify the customer via a letter, email or SMS if their situation changes.

Invalid and non-dialable CLI definitions

13. The Authority's proposal is that LOs would be required to prevent calls with "invalid" and "non-dialable" CLI data from being connected to customers. However, the Authority has not defined what it considers to be "invalid" or "non-dialable" CLI data (nor what it deems to be "valid" and "dialable". Implementing this new obligation absent a definition for, or guidance on, what is meant by "invalid" and "non-dialable" could result in:

- i. LOs each interpret "invalid" and "non-dialable" differently, thus enabling bad actors to avoid defences against telephone-based fraud; or
- ii. LOs all interpret "invalid" and "non-dialable" incorrectly and thus potentially malicious traffic continues to be connected to customers, ultimately resulting in consumer harm.

14. We believe a pragmatic solution is available. Helpful definitions of "invalid" and "non-dialable" are set out in Ofcom's guidance document⁶, which can be readily adopted by the Authority. It states that a call will bear "invalid" CLI data where it does not comply with the International Telecommunications Union's (ITU) Recommendation E.164 – a guidance document that sets out the appropriate length of domestic and international fixed and mobile numbers⁷. For domestic numbers, the CLI data must also be for a number that is available for allocation and has already been allocated under the National Numbering Scheme. Similarly, "non-dialable" number is one that is not in service and cannot be used to make a return or subsequent call.

15. We suggest that the Authority update its proposed licence condition, or supplementary guidance, with definitions for key terms such as "invalid" and "non-dialable" based on those contained in Ofcom's guidance document.

Identification of "non-dialable" CLI data

16. We agree that the responsibility to identify and block calls with invalid and/or non-dialable CLI falls on all LOs – originating, transit and terminating. Provided the Authority adopts the aforementioned definitions of "invalid" and "non-dialable", all operators ought to be able to identify and block calls with invalid CLI data – the number will either be a length incompatible with Recommendation E.164

⁶ Ofcom's Guidance on the provision of Calling Line Identification facilities – para. 4.10

⁷ <https://www.itu.int/rec/T-REC-E.164/en>

and/or it will be a number that is unavailable for allocation and/or has not been allocated by Ofcom in its National Numbering Scheme. This ought to be achieved using a signalling firewall.

17. However, an operator can only determine whether the number bears “dialable” CLI data if it is the originating operator. This is because, in our experience, only the originating LO can establish whether the number allocated to it is currently in service. With this in mind, we urge the Authority to explicitly clarify the roles of originating, transit and terminating operators when meeting the proposed CLI data requirements. In our view, the originating LO should have an obligation to ensure that CLI data is always valid, dialable and uniquely identifies the customer. Conversely, transit and terminating LOs should only have an obligation to ensure the validity of the CLI data. For calls that originate internationally, transit and terminating operators in Jersey will only be able to verify the validity of the CLI data and not whether the CLI data is dialable. In our view, it would be disproportionate to require transit or terminating operators to establish whether a number bears dialable CLI data when they are unable to do so.

18. Please note that we will only be able to identify and block calls with invalid or non-dialable CLI data for customers on the Sure mobile network, not for our fixed landline customers⁸. This is because we only provide retail landline services by purchasing Wholesale Line Rental (“WLR”) from JT and do not have any retail landline customers on a separate Sure fixed network. As a result, we do not have the requisite level of access to be able to identify and block illegitimate tariff – we simply receive a call detail record (or “CDR”) from JT for each customer, enabling us to bill our retail customers. We are thus reliant on JT putting in place the requisite functionality for blocking calls with invalid or non-dialable CLI. In our view, it would be helpful for the Authority to recognise our (and other LOs) reliance on JT for this in its guidance or Statutory Statement.

Privacy

19. Finally, we ask the Authority to clarify what it means by “respect the privacy choices of Users” for LOs in Jersey. We note that a similar provision is set out by Ofcom in General Condition C6.4(b). However, this General Condition is given meaning by a legal instrument that does not apply in Jersey. The privacy choices of UK customers regarding CLI are set out in Regulations 10 – 13 of the Privacy

⁸ This does not include a very small number of Sure customers that use Sure Dial (a carrier pre-select product). Here, we would be reliant on JT identifying and blocking invalid or non-dialable for terminating calls as calls will always come in from JT interconnects for them to deliver to the end user. However, we would be responsible for identifying and blocking invalid or non-dialable CLI, for originating calls, as the calls would be routed to the LOs to route them onto the final destination (called number).

and Electronic Communications (EC Directive) Regulations (PECR)⁹. PECR gives customers the right to prevent the display of a presentation CLI when making an outgoing call, except for those making marketing calls. It also requires operators to make this facility available on a call-by-call or ongoing basis.

20. As above, there does not appear to be a corresponding provision in the Data Protection (Jersey) Law 2018¹⁰, and thus the meaning of ‘respect the privacy choices of Users’ is somewhat opaque when considering CLI data in Jersey. Is it the Authority’s expectation that this privacy provision should cover the rights and obligations set out in Regulations 10 – 13 of PECR? If not, what meaning should be given to “privacy choices”? Either way, we ask that the Authority set out its expectations clearly and explicitly in its finalised licence condition.

Implementation Timescales

21. Absent guidance on the questions set out above, it is difficult for LOs to predict exactly how long it will take to implement the changes necessary to comply with this proposed licence condition. Below, we attempt to give a tentative indication of how long it will take us to implement a solution that effectively identifies and blocks illegitimate traffic.
22. We anticipate that LOs will need at least 12 months to deliver a solution that adequately identifies and blocks (or filters) calls that bear invalid or non-dialable CLI for our mobile network. This is because an appropriately configured signalling firewall is required to identify and block the traffic. [X].
23. However, more time will be required to develop, implement and test custom rules for identifying and blocking invalid CLI data. At this stage, [X].
24. Furthermore, [X]. We will therefore need sufficient time to be able to either:
- a. [X]; or
 - b. [X].
25. We believe that at least 12 months will be required to complete this work across our TDM and SIP interconnects.

⁹ [The Privacy and Electronic Communications \(EC Directive\) Regulations 2003 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukdsi/2003/01/1354501000000001.pdf)

¹⁰ [DATA PROTECTION \(JERSEY\) LAW 2018 \(jerseylaw.je\)](https://www.jerseylaw.gov.je/data-protection-law-2018)

Customer Experience

26. It is important to note that, whilst blocking invalid and non-dialable CLI will better protect customers from telephone-based fraud, it may also result in a bad customer experience in some limited circumstances. Many operators will seek to use 'least cost routes' when routing international calls. This can result in presentation or network number digits being 'lost' when the operator or transit carrier changes its routing, and thus the telephone number is shorter than that required by the E.164 ITU-T Recommendation. Where signalling firewalls are configured to block invalid CLI (i.e., calls that do not comply with E.164) it could result in genuine international or outbound roaming calls to Jersey numbers being blocked.