



**4 August 2023**

**By email only**

Cliff Mason  
Ofcom - Spectrum Group / Authorisations  
Riverside House  
2a Southwark Bridge Rd  
London SE1 9HA  
United Kingdom

Dear Cliff

**Spectrum defragmentation: recommendation to revoke licence**

I am writing to you on behalf of the Jersey Competition Regulatory Authority (the **Authority**) to recommend the revocation of a radio spectrum licence held by Clear Mobitel Limited (**Clear**), of 40 Maison St Louis, St Saviour, Jersey, JE2 7LX, a company holding a current Class II telecoms licence in Jersey.

As you know, companies operating a wireless telecoms network in Jersey require two licences:

- (a) A valid telecoms licence issued by the Authority under the Telecommunications (Jersey) Law 2002 (the **Jersey Law**) allowing the provision of telecoms services in the Island; and
- (b) A valid spectrum licence issued by Ofcom under the Wireless Telegraphy Act 2006 (the **WTA Licence**) allowing the use of specific spectrum bands.

Although we have no statutory powers in relation to issuing spectrum licences, under Article 22 of the Jersey Law we are able to cooperate with Ofcom, which includes on the allocation of electromagnetic spectrum to local companies. Under this arrangement, Ofcom expects us to make recommendations after following an appropriate consultation and assessment process to underpin and justify any decisions and subsequent recommendations we make.

The WTA provides Ofcom powers for the 'granting, revocation and variation of wireless telegraphy licences', with the spectrum licences issued to Jersey telecoms operators containing a section stating that variation and revocation can take place:

*For reasons related to the management of the radio spectrum, provided that in such case the power to revoke or vary may only be exercised after at least one year's notice is given in writing and after Ofcom has considered any pertinent factors.*

When considering the management of radio spectrum, the WTA states that:

*Ofcom may not revoke or vary a wireless telegraphy licence unless the proposed revocation or variation is objectively justifiable.*

Under existing agreement and working arrangements with Ofcom, we have considered pertinent factors on behalf of Ofcom and are making recommendations to revoke or vary a Jersey spectrum licence based on reasons that can be demonstrated as being objectively justifiable.

In June 2022, we issued a 5G Spectrum Award: Updated Statement of Intent<sup>1</sup> which included recognition that providing large contiguous blocks in the mid-spectrum 3.4-3.8 GHz band would require defragmentation. In February 2023, we issued a consultation<sup>2</sup> explaining our provisional view is that defragmentation should take place through historic licensees moving within the 3.4-3.8 GHz band or having their spectrum allocations removed with due notice.

The consultation document set out our reasons for arriving at this provisional decision, which included:

1. Without defragmentation, it is not possible to provide 100 MHz contiguous allocations in the important mid-spectrum band strongly advocated by international standards bodies;
2. Not providing 100 MHz contiguous allocations could lead to there being insufficient spectrum arrangements available to satisfy prospective future demand for mobile data in Jersey; and
3. Alternative non-contiguous arrangements will be less efficient, economic and effective for local licensed operators.

We do recognise the potential implications of our decision on existing historic licensees in the 3.4-3.8 GHz band. In view of this, in January 2023 we offered Clear an opportunity to move to alternative allocations within the band,

Clear responded with a decline, stating that it expected that the amount of bandwidth offered should be the same as its existing allocation.

We were unable to agree to this request for several reasons:

1. In the 5G Statement of Intent issued in June 2022 the Authority created:
  - i. Three x 'Full Service' spectrum packages, intended for Island-wide networks providing publicly available services for the maximum number of users, with each package

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<sup>1</sup> JCRA document no. 22/37 Case T-064 5G spectrum award: Updated Statement of Intent – see <https://www.jcra.je/cases/2022/t-064-5g-spectrum-award-2022/t-064-5g-spectrum-award-updated-statement-of-intent/>

<sup>2</sup> JCRA document no. 23/04 Case T-085 Defragmenting the 3.4-3.8 GHz spectrum band: Proposal for consultation – see <https://www.jcra.je/cases/2023/t-085-defragmenting-the-34-38-ghz-spectrum-band/t-085-defragmenting-the-34-38-ghz-spectrum-band-consultation/>

containing a block of up-to-100 MHz contiguous spectrum in the local 3.4-3.8 GHz band;  
and

- ii. Multiple 'Limited Service' spectrum packages, intended for potentially limited coverage networks providing either publicly available or private services for a potentially limited number of users, with each package having a block of up-to-30 MHz contiguous spectrum in the 3.4-3.8 GHz band.

As stated in our Defragmentation Consultation document, we have awarded two Full Service packages and are planning to invite applications for the remaining one in 2023. This is available to any operator meeting the relevant criteria. In addition, there remains 90 MHz of spectrum in the 3.4-3.8 GHz band for Limited Service spectrum packages<sup>3</sup>.

Our offers to existing licensees in the 3.4-3.8 band leaves 30 MHz spectrum remaining for one or potentially more future market entrants, perhaps offering innovative new wireless services to Islanders. Providing Clear with more spectrum than has been offered at this point will limit or preclude this opportunity.

2. We have also taken Clear's use of its presently allocated spectrum into account when determining what represents a reasonable offer if you agree to move within the 3.4-3.8 GHz band.

We are mindful that although Clear received licences from Ofcom for spectrum in the 2100 MHz band and in the 3.4-3.8 GHz band in 2015, it has not used its allocations to provide any wireless telecoms services in Jersey. We further have no firm reason to believe Clear plans to launch any services in the foreseeable future. While the impact of Clear holding this unused spectrum may have previously been considered as having low or minimal impact, the development of 5G services with associated high mobile data transmission rates requires us to ensure that all current and prospective demands for local telecommunications services are satisfied.

Despite this, we believe that taking a consistent approach to all historic licensees is important, objective and fair, and on this basis Clear should also be offered a Limited Service spectrum package. However, we believe that offering a spectrum block of more than 30 MHz at this time would be unreasonable in view of Clear's non-use of presently allocated spectrum and given the need to ensure sufficient spectrum is available to meet prospective future demands for local telecoms services are satisfied.

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<sup>3</sup> Subject to defragmentation, there is 390 MHz of spectrum between 3.41 and 3.80 GHz potentially available for allocation.

Following our analysis of consultation responses and decision to proceed with defragmentation, we reaffirmed the offer of an alternative 'Limited Service' spectrum allocation in the 3.4-3.8 GHz band, which Clear has again declined.

We believe that through our consultation on defragmenting the 3.4-3.8 GHz band the Authority has considered pertinent factors in relation to spectrum management on behalf of Ofcom and our final decision to recommend Ofcom revokes or varies a Jersey spectrum licence based on reasons that we have demonstrated to Ofcom is objectively justifiable.

We further believe that our offer of a new 'Limited Service' spectrum allocation within the 3.4-3.8 GHz band with a one-year notice period represents a reasonable and justifiable alternative spectrum arrangement for Clear.

Therefore the Authority is recommending that Ofcom revokes Clear's Fixed Wireless Access 3.6 GHz Licence, no. 1055784, issued on 18 May 2021, with a one-year notice period.

I trust this provides enough information for Ofcom to proceed with revoking the stated spectrum licence. If you do require any further details or clarification do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tim Ringsdore', with a large, stylized flourish above the name.

**Tim Ringsdore**

**Chief Executive Officer**

Copy: C. Marett, Director of Regulatory Affairs Clear Mobitel

Published on the JCRA website