



# Telecommunications (Jersey) Law 2002

## Final Decision on Licence Contraventions and Reasonable Steps

Case T-049:

Telecoms service incidents (May-July 2023)

This version is **non-confidential**

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JCRA 24/61

# 1. Summary

- 1.1 This Decision confirms that, following an investigation, the Authority determined that a series of service incidents which occurred between May and July 2023, demonstrated contraventions by Sure (Jersey) Limited (**Sure**) of its telecoms licence. Further, this Decision confirms that the Authority is satisfied that Sure has taken reasonable steps to remedy the contravention of licence conditions.
- 1.2 The service incidents, which totalled 18 between May and July 2023, detrimentally impacted Jersey's public emergency call service. The ability to dial a number to call the emergency services is key for the safety and security of Jersey's citizens and visitors. Given this, the performance and security of Jersey's public emergency call service is critical. Therefore, any service incident with an impact on Jersey's public emergency call service is treated with the utmost seriousness.
- 1.3 Having concluded its investigation into the service incidents, the Authority determined Sure had contravened the following of its licence conditions:
- Licence Condition 2.5(a) (the obligation to notify the Authority of any fact or event likely to materially affect compliance with its licence);
  - Licence Condition 9.1 (the obligation to take all reasonable steps to ensure the integrity, e.g., resilience and reliability, of its network); and
  - Licence Condition 14.1 (the obligation to provide a public emergency call service at any time).
- 1.4 Having determined Sure had contravened its licence conditions, the Authority next had to determine whether it had the power to give directions to Sure under Article 19(1) or to impose financial penalties under 19A(2) of the Telecommunications (Jersey) Law 2002 (**Telecoms Law**). In order to make this determination, Articles 19(2G) and Article 19A(13) require the Authority to consider whether, assuming that the contravention is not trivial, it is satisfied that Sure has taken reasonable steps to comply with the conditions and to remedy the effects of the contravention. As set out below, the Authority has determined that it is satisfied as to this in relation to the contraventions of Licence Conditions 2.5(a), 9.1, and 14.1. Accordingly, the Authority does not have power to give directions to, or impose financial penalties on, Sure in relation to the contraventions.
- 1.5 The rest of this document is structured as follows:
- Chapter 2 sets out the background to the investigation;
  - Chapter 3 sets out the Authority's Decisions on Licence Contraventions;
  - Chapter 4 sets out the Authority's application of Articles 19(2G) and 19A(13) to each Licence Contravention;
  - Chapter 5 explains the next steps; and
  - Annex A sets out the relevant legal and regulatory framework.

## 2. Background

- 2.1 Sure is licensed under the Telecoms Law to run a telecommunications system in Jersey and provide telecommunication services to Jersey.<sup>1</sup> Sure's licence, issued by the Authority on 1 September 2015 and modified with effect from 7 July 2023, contains various conditions which together set out Sure's regulatory obligations.
- 2.2 Between 5 May 2023 and 3 July 2023 Sure experienced a series of 18 incidents on its network, of varying duration, which impacted on the availability of the public emergency call service (**PECS**) for 50% of Sure's Jersey-based customers. The cumulative impact on PECS over these 18 incidents was 297 minutes.<sup>2</sup>
- 2.3 For an impacted subscriber when the incidents occurred, any active calls to PECS would have entered a no-audio state causing the caller and callee to consider the call cut-off. In addition, any call attempts initiated by these subscribers during an incident would have failed, leaving the caller unable to connect with the emergency services. Had an impacted Sure subscriber required the support of the emergency services during an incident, they would have needed to make contact via an alternate method such as landline or a mobile device connected to an alternative mobile operator.
- 2.4 Based on the information provided by Sure, throughout the various incidents the only calls impacted were test calls attempted and reported by JT during incidents on 5 May 2023 and 2 July 2023. However, due to the potentially life-threatening or personal security related consequences involved and in the interests of the safety and security of Jersey's public, the Authority deemed it necessary to investigate the service incidents.
- 2.5 The investigation has included the gathering of a substantial amount of information under formal powers with the support of Sure. This information has been thoroughly analysed and a Technical Report has been produced based upon this. The Technical Report has been shared with and agreed by Sure. This has supported the Authority's decision making in respect of this case.
- 2.6 Consistent with the Authority's process, Sure has had the opportunity to comment on the Authority's draft findings with respect to this case, issued in July 2024. Sure submitted detailed comments in September 2024 and met with Officers on 24 September to provide further detail on its response. Subsequent to that meeting, Sure provided further written information and made additional commitments in relation to testing. The Authority has taken into account the additional information provided by Sure in making its decision.

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<sup>1</sup> [Sure's Class II Telecoms Licence](#)

<sup>2</sup> For the incidents with a duration of less than 1 minute, these were calculated with duration of 0 minutes.

### 3. Decision on licence contraventions

3.1 The Authority's investigation identified that Sure did not meet certain of its regulatory obligations, as set out within the conditions of its licence issued under the Telecoms Law.

#### **Licence Condition 2.5(a)**

3.2 Condition 2.5(a) imposes the obligation on Sure to notify the Authority of any event that may affect its ability to comply with any condition of its licence including any change which may detrimentally affect the availability of a telecommunications service.

3.3 For the duration of each of the 18 service incidents, 50% of Sure's Jersey-based customers were unable to make 2G and 3G calls to non-Sure numbers (via a voice interconnect) including calls to the emergency services. Therefore, the service incidents impacted Sure's ability to comply with its licence conditions (see below).

3.4 Through its investigation, the Authority determined that nine of the 18 service incidents were significant, primarily by virtue of their duration (being five minutes long or more) and so should have been notified to the Authority, however seven of the incidents were not proactively notified to the Authority:

- Three incidents were notified following the Authority's initial enquiries; and
- Details of a further four incidents were only provided as part of the Authority's investigation.

3.5 For these seven incidents, the Authority concluded Sure failed to comply with its obligation under Condition 2.5(a) of its licence.

#### **Licence Condition 9.1**

3.6 The Authority concluded that Sure failed to take all reasonable steps to ensure the integrity of its network. The Authority considers the '*integrity*' of the network includes the resilience and continuity of services provided over the network and the '*reasonable steps*' that it could have taken prior to the service incidents, were those which would ensure the integrity of its network and prevent these incidents from occurring.

3.7 The Authority's investigation found that an aspect of Sure's network was non-resilient since 27 April 2015 when Sure integrated new systems into its core network which contained an incorrect configuration. The incorrect configuration caused the series of service incidents between May and July 2023. The network remained non-resilient and so lacked integrity until the configuration was corrected on 4 July 2023.

3.8 The Authority further identified that Sure did not take all reasonable steps to ensure the integrity of its network prior to the service incidents. For example, Sure could have:

- Taken further steps to ensure thorough testing of its provision of PECS before it integrated its new systems;
- Taken steps to ensure that it fully understood the behaviour of PECS in various scenarios depending on potential failures that could occur in the service path;

- Held spare system components which would have enabled Sure to act to replace a potentially faulty unit much sooner; and
- Implemented improved monitoring of PECS call failures and network events to improve awareness of incidents.

3.9 The Authority therefore concluded that the series of service incidents demonstrated a contravention by Sure of Condition 9.1 of its licence. This licence condition contravention is considered most serious due to the length of time over which Sure could and should have acted to uphold the reliability and resilience of its network. The investigation concluded Sure could and should have prevented the service incidents from occurring by better understanding its network, particularly in relation to the carrying of PECS.

#### **Licence Condition 14.1**

3.10 The cumulative impact on PECS of these 18 incidents was 297 minutes. For this duration, PECS was unavailable to 50% of Sure's Jersey-based customers. Therefore the Authority concluded that Sure failed to comply with Condition 14.1 of its licence for 297 minutes.

## 4. Application of Articles 19(2G) and 19A(13)

4.1 These Articles provide that the Authority shall not give directions (in the first instance) or impose a financial penalty (in the second instance) if:

- The contravention is trivial; or
- The licensee is taking reasonable steps to comply with the condition and to remedy the effects of the contravention.

### **Licence condition 2.5(a)**

4.2 Given the critical importance of the provision of PECS and the potential consequences of an outage of that service, the Authority considers it essential that all service incidents are reported to the Authority in accordance with this Condition. Accordingly, the Authority finds that the contravention was not trivial.

4.3 The Authority has determined that the various actions Sure has taken in relation to its contravention of Condition 2.5(a) demonstrate that Sure has taken reasonable steps to comply with the condition and to remedy its effects. In particular, Sure has:

- Acknowledged that its internal communications of incidents relating to PECS could be improved and has taken steps to remedy this with inclusion of its Regulatory team, CISO, and members of its Executive Committee in all automated notifications for Priority 1 issues, which include PECS;
- Developed and implemented more detailed and regular training in this area with a focus on the teams directly involved in the support and operation of PECS;
- Updated its process for responding to PECS service incidents internally; and
- Implemented improved service monitoring to alert for failed calls within the last 10 minutes.

### **Licence condition 9.1**

4.4 As noted in paragraph 3.7, the Authority has found that the incorrect configuration of Sure's Mobile Switching Centre (**MSC**) systems meant that its solution was not resilient to supporting network component failure since commissioning in 2015. Due to the longstanding nature of the issue and Sure's operational approach to assurance in relation to its PECS, the Authority has found that the contravention is not trivial.

4.5 The Authority has determined that the various actions Sure has taken in relation to its contravention of Condition 9.1 demonstrate that Sure has taken reasonable steps to comply with the condition and to remedy its effects. In particular, Sure has:

- Addressed the configuration of its MSC systems to make the PECS service resilient to internal component and supporting network failures;
- Updated its internal processes for responding to and managing PECS service incidents;
- Implemented improved service monitoring to alert for failed calls within the last 10 minutes;

- Engaged an independent consultant to perform a review of its PECS provision from a technical and process point of view. The recommendations from this review have been actioned by Sure;
- Updated its change management process to provide increased scrutiny to changes with a potential or actual impact on PECS; and
- Committed to a programme future system and service testing to evaluate for and prove service resilience.

#### **Licence condition 14.1**

4.6 For the duration of the service incidents, Jersey's PECS was unavailable to 50% of Sure's mobile users. Due to the cumulative duration of this impact on significant proportion of Sure's subscriber base, the Authority finds that the contravention was not trivial.

4.7 The Authority has determined that the various actions Sure has taken in relation to its contravention of Condition 14.1 demonstrate that Sure has taken reasonable steps to comply with the condition and to remedy its effects. In particular, Sure has:

- Addressed the configuration of its MSC systems to make the PECS service resilient to internal component and supporting network failures;
- Updated its internal processes for responding to and managing PECS service incidents;
- Implemented improved service monitoring to alert for failed calls within the last 10 minutes;
- Engaged an independent consultant to perform a review of its PECS provision from a technical and process point of view. The recommendations from this review have been actioned by Sure;
- Updated its change management process to provide increased scrutiny to changes with a potential or actual impact on PECS; and
- Committed to a programme future system and service testing to evaluate for and prove service resilience.

## 5. The Authority's decisions

5.1 This chapter sets out the Authority's decisions in respect of its investigation into the service incidents which occurred between May and July 2023.

### **Contraventions of licence conditions**

5.2 The Authority concluded Sure contravened:

- Condition 2.5(a) of its licence by failing to report service incidents affecting emergency service calls to the Authority, based on the Authority's publicly issued guidance;
- Condition 9.1 of its licence by failing to take all reasonable steps to ensure the integrity of the network that it operates and uses to provide emergency service calls to its Jersey subscribers ; and
- Condition 14.1 of its licence by failing to ensure emergency service calls were available to all of its subscribers on its mobile network within Jersey.

5.3 Due to the impact on Jersey's public emergency call service, Sure's contraventions placed the citizens of Jersey in an unacceptable position of potential harm. These contraventions are therefore most serious.

### **Regulatory Action**

5.4 The Telecoms Law empowers the Authority to issue a direction and/or a financial penalty where it is satisfied that a licensee is in contravention of a condition contained in its licence. The Authority determined the service incidents demonstrated contraventions by Sure of its licence conditions therefore the legal threshold for considering the imposition of a direction and a financial penalty were met in this case.

5.5 However, with reference to Article 19(2G) and Article 19A(13) of the Telecoms Law, the Authority is satisfied that Sure has and is taking reasonable steps to comply with its licence conditions and to remedy the effects of the contraventions demonstrated by the service incidents. For example, following the service incidents, Sure:

- Addressed the configuration of its MSC systems to make the PECS service resilient to internal component and supporting network failures;
- Updated its process for responding to PECS service incidents internally;
- Implemented improved service monitoring to alert for failed calls within the last 10 minutes;
- Updated its change management process to provide increased scrutiny to changes with a potential or actual impact on PECS; and
- Committed to a programme future system and service testing to evaluate for and prove service resilience.



- 5.6 Based on this set of decisions, the Authority may not exercise its powers under the Telecoms Law to impose a direction<sup>3</sup> or a financial penalty<sup>4</sup> upon Sure in this case.
- 5.7 As the Authority has reached this decision, the investigation and case will be formally closed and no further action will be taken at this time.

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<sup>3</sup> Article 19 of the Telecoms Law.

<sup>4</sup> Article 19A of the Telecoms Law.

## ANNEX A

### Legal and regulatory framework

The following summarises elements of the legal and regulatory framework are relevant to this Decision. In particular, it summarises the regulatory obligations that apply to licensed telecommunications operators in Jersey in relation to the provision of a public emergency call service.

The key points are:

- Each Licensee's regulatory obligations are set out within the conditions of its licence, as issued under the Telecoms Law<sup>5</sup>;
- If a licensed telecommunications operator contravenes a licence condition, the Authority can enforce that condition by issuing a Direction and/or imposing a financial penalty; and
- The Authority has other relevant powers to enable it to enforce and improve the regulatory regime, including to gather information or modify licence conditions.

#### Telecoms Regulation

In Jersey, telecommunications are governed by the Telecoms Law.

**Article 2(1)** of the Telecoms Law empowers the Authority to license any company running part, or all, of a telecommunications system in Jersey.

**Article 2(3)** of the Telecoms Law provides that part or all of telecommunications system must be run in accordance with the condition contained within the Telecoms Operator's licence.

**Article 16(1)** of the Telecoms Law enables the Authority to place conditions on a licence that it considers necessary or desirable in order for it to administer the Telecoms Law.

The licence conditions most relevant to this case are:

#### **Condition 2.5 (a)**

*“...the Licensee shall notify the JCRA of the occurrence of any of the following:*

*(a) any fact or event likely to materially affect the Licensee's ability to comply with any Condition including any change to the Licensed Telecommunications System which may detrimentally affect the permanence, availability or quality of the Licensed Telecommunication System or Telecommunications Services...”*

#### **Condition 9.1: Integrity of the Network**

*“The Licensee shall take all reasonable steps to ensure the integrity of the Network and may refuse to provide the Telecommunication Services which it is obliged to provide in accordance with Condition 13 of this Licence to a particular User if providing those Telecommunication Services would or would be likely to cause damage or interference to the Licensed Telecommunication System.”*

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<sup>5</sup> Telecommunications (Jersey) Law 2002.

### **Condition 14.1: Public Emergency Calls**

*“The Licensee shall provide a public emergency call service, being a Telecommunications Service that enables a User at any time and without incurring any charge or using any coin or token, to communicate with the police, the ambulance or fire services or the marine search and rescue services and to notify them of an emergency by using Customer Premise Equipment lawfully connected to the Licensed Network at any place in the Bailiwick of Jersey.”*

The PECS Guidance<sup>6</sup> sets out the Authority’s expectations with regards to how a Telecoms Operator may reasonably demonstrate compliance with the licence conditions listed above. The PECS Guidance focusses on the underlying resilience and reliability of networks and systems used to connect calls to the Emergency Services, and the effectiveness of any associated processes and people.

### **The Authority’s power to gather information**

**Article 23** of the Telecoms Law provides the Authority with statutory basis upon which it is able to request information. In particular, 23(1)(a) allows the Authority, by notice in writing to:

*“...require any person to produce to the Authority, or any person appointed by it for that purpose, any documents specified or described in the notice that are in the custody, or under the control, of the first-mentioned person and specify the time, manner and form in which those documents are to be furnished.”*

Licence condition 4, ‘Provision of Information’, stipulates that the Authority is authorised to gather information from any Licensee.

### **The Authority’s power to issue a direction**

**Article 19(1)** of the Telecoms Law provides that:

*“Where, in the opinion of the Authority, a Licensee is in contravention of a condition contained in a licence, the Authority shall give a direction to the Licensee to take steps, or specified steps, to ensure compliance with that condition.”*

The Authority’s power to issue a direction allows it to enforce a licence condition by requiring the licensee to take (or not to take) certain actions.

**Article 19(2G)** of the Telecoms Law states that the Authority *shall not* give a direction under Article 19 where it is satisfied that either the contravention is trivial or the licensee is taking reasonable steps to comply with the condition and to remedy the effects of the contravention.

### **The Authority’s power to impose a financial penalty**

Under **Article 19A(2)** of the Telecoms Law, the Authority may impose a financial penalty on a licensee that contravenes a licence condition. The Authority may impose a further penalty if that contravention is not remedied (Article 19A(3)).

**Article 19A(4)** of the Telecoms Law provides that:

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<sup>6</sup> [guidance-on-the-provision-of-a-public-emergency-call-service.pdf \(icra.je\)](#)

*“A financial penalty imposed on a Licensee or, if more than one financial penalty is imposed, the total of those penalties, must not exceed 10% of the turnover of the Licensee during the period that the Licensee was in contravention of the condition contained in the licence, to a maximum period of 3 years.”*

**Article 19A(13)** of the Telecoms Law states that the Authority shall not give a financial penalty under Article 19A where it is satisfied that either the contravention is trivial or the licensee is taking reasonable steps to comply with the condition and to remedy the effects of the contravention.