

JERSEY COMPETITION REGULATORY AUTHORITY
MERGER APPLICATION FORM

Case No. C-042

SURE GUERNSEY LIMITED
JERSEY AIRTEL LIMITED

3 November 2022

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LIST OF ANNEXES

Merger Form Question No.	Annex no.	Document name	Party	Confidential status
N/A	1.1	✂	✂	✂
	1.2	Non confidential Letter from Sure to JCRA dated 3 November 2022	Sure	
2.5	2.5.1	✂	✂	✂
	2.5.2	✂	✂	✂
	2.5.3	✂	✂	✂
2.6	2.6.1	✂	✂	✂
	2.6.2	✂	✂	✂
	2.6.3	✂	✂	✂
	2.6.4	✂	✂	✂
	2.6.5	✂	✂	✂
	2.6.6	✂	✂	✂
2.8	2.8.1	Press release , 3 October 2022	Sure and Airtel	

3.3	3.3.1	✂	✂	✂
	3.3.2	BTC Sure Group Limited Annual Report and Financial Statements Year Ended 31 December 2020	Sure	
	3.3.3	Batelco Annual Report 2021	Batelco	
	3.3.4	✂	✂	✂
	3.3.5	✂	✂	✂
	3.3.6	Bharti Global Limited Annual Report	Bharti	
4.1	4.1.1	✂	✂	✂
4.4	4.4.1	✂	✂	✂
	4.4.2	✂	✂	✂
4.5	4.5.1	✂	✂	✂
4.6	4.6.1	✂	✂	✂
	4.6.2	✂	✂	✂
4.7	4.7.1	✂	✂	✂
	4.7.2	✂	✂	✂

4.8	4.8.1	✂	✂	✂
	4.8.2	✂	✂	✂
4.16	4.16.1	✂	✂	✂

Responses and supporting documents provided by the Parties in response to the JCRA's Requests for Further Information dated 3 October 2022 ("**3 Oct RFI**") and 20 October 2022 ("**20 Oct RFI**")

N/A	5.1	✂	✂	✂
	5.2	✂	✂	✂
N/A	5.1-S1	✂	✂	✂
	5.1-S2	✂	✂	✂
	5.1-S3	✂	✂	✂
	5.1-S4	✂	✂	✂
N/A	5.2-A1	✂	✂	✂
	5.2-A2	✂	✂	✂
	5.3-A3	✂	✂	✂
	5.4-A4	✂	✂	✂

	5.5-A5	✂	✂	✂
	5.6-A6	✂	✂	✂
N/A	6.1	✂	✂	✂
	6.2	✂	✂	✂

Introduction and Summary

1. In Jersey, Sure operates fixed and mobile networks, as well as being active in the provision of data centre services, cloud and cyber security. It is active in the retail supply of fixed and mobile telephony and fixed internet access services together with certain wholesale mobile services such as call termination and roaming. Its ultimate parent company is Bahrain Telecommunications Company B.S.C (**Batelco**), a company incorporated under the laws of Bahrain.
2. Airtel is primarily a provider of mobile telecommunication services in Jersey operating under the trading name Airtel-Vodafone. In Jersey, the Airtel business is operated by Jersey Airtel Limited (**JAL**), whose ultimate parent is Bharti Overseas Private Limited, a private limited company incorporated under the laws of India.
3. The Transaction (together with the related acquisition of Airtel's telecommunications business in Guernsey), is being driven by a strategic decision by Bharti to withdraw from its Channel Islands operations. These business are [§<].
4. The Transaction (defined below) will combine the Sure and Airtel businesses in Jersey. Consolidation in the small mobile network market in Jersey is needed to achieve long term sustainability and to drive investment to deliver next generation services sustainably to Jersey consumers and businesses.¹
5. The Transaction offers Sure the opportunity through the merged entity to become a stronger player able to compete more aggressively and effectively with market leader Jersey Telecom (**JT**).² A stronger challenger with sustainable scale will unlock major investments and create significant consumer value. Upon completion of the Transaction, Sure intends to build a new, next generation mobile network in Jersey, significantly accelerating plans to decommission old equipment and ensure that Jersey consumers and businesses will benefit from enhanced network benefits, including:
 - (a) improving the quality, robustness and coverage of existing 4G networks;
 - (b) accelerating the launch of 5G and unlocking digital economy benefits; and
 - (c) delivering upgrades needed to meet forthcoming High Risk Vendor (**HRV**) and Telecoms Security Requirements (**TSRs**) promptly and in full.

¹ Project Evolve, Introductory Presentation, 13 May 2022, slide 3 at Annex 2.6.4.

² [§<]

6. This will result in major gains for all users of mobile telecommunications in Jersey in terms of better and more reliable services, improved security protection, and greater access to bundles and discounts. More densely populated areas of the island, such as St Helier, are likely to experience the greatest benefits in terms of reduced capacity constraints and network congestion
7. The incumbent JT currently dominates the Jersey telecoms sector, representing 71% of total sector revenues across all markets.³ Neither Sure nor Airtel has to date been able to successfully challenge JT's pre-eminent position. Indeed, since 2018, JT has maintained and even grown its market position.⁴ The parties' positions have, in contrast, remained largely stable. Even combined, they currently represent only 29% of total sector revenues.
8. Airtel in particular has struggled. The Jersey mobile services market is small, crowded and fully penetrated. In this challenging environment, Airtel has failed to recover its existing investments in Jersey.⁵ [REDACTED].⁶ Sure estimates that these costs are likely to be of the order of [REDACTED]. In other words it is plain that the Transaction will result in increased investment at a faster pace than would otherwise be the case and the commitments offered are designed with this in mind. [REDACTED].⁷
9. As described in more detail below, JT is a closer competitor to both parties than they are to each other. Indeed, in recent years, Airtel has been a largely static market participant. The exit of Airtel as an independent competitor will not therefore materially change the dynamics in the market, while a more robust combined entity will be a stronger challenger to JT. The increased competition that the combined entity will bring to JT will result in substantial concrete benefits for Jersey consumers, both in terms of delivering much-needed investment across the expanded Sure/Airtel footprint and offering new and higher quality services to consumers and business.
10. The sooner the Transaction is able to close, the sooner these investments can be made and the sooner and greater the benefits will be to the wider Jersey economy. In order to alleviate any potential concerns that the JCRA may perceive and to demonstrate its commitment to ensuring that Sure will post merger act as a stronger competitor to JT as well as continue to

³ Source: Statistics Jersey (2021), 'Telecommunications Statistics and Market Report', which cites total sector revenues of £108m. Sure and Airtel figures have been obtained from their returns to Statistics Jersey used to compile these figures, with JT revenues then inferred as the balancing figure.

⁴ See Statistics Jersey (2021), 'Telecommunications Statistics and Market Report', Table 6. JT has slightly increased its market share within mobile from 51% in 2018 to 52% in 2021.

⁵ See [REDACTED]. See Airtel's response to Request 2 of the 3 Oct RFI at Annex 5.2 for the background behind this document.

⁶ See Sure and Airtel's responses to Request 1 of the 3 Oct RFI at Annexes 5.1 and 5.2 respectively.

⁷ [REDACTED]

lead on innovation whilst continuing to offer affordable and competitive services, Sure wishes to pre-emptively offer a comprehensive set of undertakings. These have been designed to embed Sure's determination to continue to offer strong competition on price as well as to provide regulatory certainty on the accelerated roll-out of an HRV -compliant 5G network. Sure wishes to engage early with the JCRA to discuss these commitments in tandem with its first-phase review, which will include the following commitments⁸:

- Improved service: The latest 5G mobile technology will improve coverage and download speeds in a new single network. It will complement the cutting-edge fibre network, bringing gigabit speeds everywhere and acting as a key enabler for the digital economy.
- Great value: For all existing and new customers, Sure will continue to offer market leading Unlimited Data plans. Airtel-Vodafone customers will also be able to benefit from Sure's Big Bundle in the future, saving up to £159 per year. Sure will continue to offer Airtel-Vodafone's Basic plan which is currently the lowest priced plan available in the market.
- Reliability: The new network will be highly secure, using the most trusted technology, which will achieve full compliance with High-Risk Vendor (HRV) regulations ahead of schedule. The new network will also be built to high standards of resiliency and be better for the environment – with around one third fewer sites and a lower carbon footprint.

11. These undertakings are intended to allow the JCRA to avoid a lengthy investigation that would eat up significant public resources and delay realisation of the benefits flowing from the Transaction. They reflect Sure's post-merger commitment to acting as an aggressive, innovative and effective rival to JT, offering improved networks and services and greater consumer benefits as a result. Indeed, far from seeking to make cost savings, Sure is committed (and has approval from its shareholder) to investing more in the Channel Islands should the merger proceed (with approval having been obtained for an investment of up to £48m⁹) to deliver 5G and 4G across more sites as a direct merger benefit.
12. The parties look forward to engaging constructively with the JCRA and stand ready to address any queries.

⁸ Further details are provided in the open letter from Sure's CEO, Alistair Beak, at Annex 1.

⁹ [3<]

1. Preliminary Information

1.1 Provide the contact details of all parties, including the business website address where applicable. For corporate undertakings, please state where the company is incorporated and the company number. If any of the parties or their parent entities are listed companies, please state the locations of listing.

1.1.1 Sure (Guernsey) Limited (Sure or the Buyer)

Contact details

Name: ✕

Title: ✕

Postal Address: Centenary House, La Vrangue, St. Peter Port, Guernsey, GY1 2EY]

Phone: (01481) ✕

Email address: ✕

Website: <https://www.sure.com/guernsey>

Place of incorporation and number: Guernsey, Channel Islands (38694)

Immediate parent company: BTC Sure Group Limited

1.1.2 Jersey Airtel Limited (JAL, Airtel or the Target)

Contact details

Name: ✕

Title: ✕

Postal address: 1-3-5, Castle Street, St Helier, JE2 3BT

Phone: ✕

Email address: ✕

Website: <https://airtel-vodafone.com/discover/about-us>

Place of incorporation and number: Jersey, Channel Islands (92186)

Immediate parent company: Bharti Global Limited

1.1.3 Bharti Global Limited (Bharti or the Seller)

Contact details

Name: ✕

Title: ✕

Postal address: 1/3/5 Castle Street, St Helier, Jersey, JE2 3BT, Channel Islands

Phone: ✕

Email address: ✕

Website: <https://www.bharti.com/>

Place of incorporation and number: Jersey, Channel Islands (64230)

Immediate parent company: Bharti Overseas Private Limited

1.2 If any party is part of a larger corporate group, provide the contact details for the ultimate parent entity and state where it is incorporated.

- 1.2.1 The Buyer's immediate parent company is BTC Sure Group Limited , a company incorporated in the United Kingdom.¹⁰ The Buyer's ultimate parent company is Bahrain Telecommunications Company B.S.C (**Batelco**), a company incorporated under the laws of Bahrain.¹¹

Batelco contact details

Name: ✕

Title: ✕

Postal address: P.O. Box 14, Manama, Bahrain

Phone: ✕

Email address: ✕

- 1.2.2 JAL's immediate parent company is Bharti which is a company incorporated in Jersey, Channel Islands.¹² JAL's ultimate holding company is Bharti Overseas Private Limited, a private limited company incorporated under the laws of India.¹³

Bharti Overseas Private Limited contact details

Name: ✕

Title: ✕

Postal address: Bharti Crescent, 1 Nelson Mandela Road, Vasant Kunj – II New Delhi – 110070, India

Phone: ✕

Email address: sanjay.dua@bharti.in

1.3 Provide the contact details for each party's authorised legal representative(s).

1.3.1 Buyer

Stephen Smith (Partner, Bristows LLP); Sean-Paul Brankin (Of Counsel, Bristows LLP)
Bristows LLP

¹⁰ BTC Sure Group Limited's full accounts made up to 31 December 2020, page 20 at Annex 3.3.2.

¹¹ Batelco Annual Report, 2021, page 65 at Annex 3.3.3.

¹² Bharti Global Limited's full accounts made up to 31 March 2021, page 14 at Annex 3.3.6.

¹³ Bharti Global Limited's full accounts made up to 31 March 2021, page 20 at Annex 3.3.6.

100 Victoria Embankment, London EC4Y 0DH

Email address: stephen.smith@bristows.com; sean-paul.branks@bristows.com

Phone: 020 7400 8206 / 020 7400 8322

1.3.2 Seller/Target

Veronica Roberts (Partner, Herbert Smith Freehills); Sam Tappenden (Senior Associate, Herbert Smith Freehills)

Herbert Smith Freehills

Exchange House, Primrose Street, London EC2A 2EG

Email address: veronica.roberts@hsf.com; sam.tappenden@hsf.com

Phone: 020 7374 8000

1.4 Provide the contact details of the person who should receive the filing fee receipt (and the invoice for a fee for a second detailed review).

1.4.1 Contact details

✂

Centenary House, La Vrangue, St. Peter Port, Guernsey GY1 2EY

Phone: ✂

Email address: ✂

1.5 Describe why the parties are required to seek approval for the merger under Article 21 of the Competition Jersey Law 2005.

1.5.1 The merger will result in the combined entity having a share of the supply of retail mobile telecommunications services supplied to persons in Jersey of more than 25%, therefore satisfying the thresholds set out in the Competition (Mergers and Acquisitions) (Jersey) Order 2010 and is a prescribed merger in relation to which an application must be made for approval of the Authority.

1.6 Indicate whether the parties are making a joint application.

1.6.1 This application is made jointly by Sure and Airtel.

1.7 What is the expected timescale for exchange of contracts and completion of the merger?

1.7.1 The Share Sale and Purchase Agreement was signed on 21 September 2022 (the “**Agreement**”) and is conditional on merger control approvals and/or exemptions being granted in both Jersey and Guernsey (see below).

1.8 Indicate whether any of the parties or their parent entities have previously received merger approval in Jersey.

1.8.1 In March 2013, Batelco received approval in Jersey for the acquisition from Cable and Wireless Communications plc of Sure (Jersey) Limited. The Final Decision was issued under CICRA Document 13/10.

1.8.2 For completeness, in July 2014, Sure (Jersey) Limited received approval in Jersey for the acquisition from Foreshore Holdings Limited of Foreshore Limited. The Final Decision was issued under CICRA Document 14/34.

1.9 List any other competition authorities to whom the merger has been notified.

1.9.1 None.

1.10 List any other regulatory body, whether in Jersey or elsewhere, that has been notified or will be notified of the merger. Please describe any pre-completion requirements that have been imposed and the expected satisfaction date of any such requirements.

1.10.1 The Guernsey Transaction (see below) will be notified to the Committee for Economic Development in order to request exemption from the requirement of approval pursuant to Section 14(1) of the Competition (Guernsey) Ordinance 2012.

2. Description of the Merger

2.1 Provide an executive summary of the merger, describing the parties involved and their areas of activity, a brief description of the business/es being acquired and their areas of activity, the reasons for the merger and the nature of the transaction (i.e. statutory merger, share or asset acquisition, joint venture, public offer).

2.1.1 Pursuant to the Agreement signed on 21 September 2022, the Buyer will acquire JAL, excluding JAL's 100% owned subsidiary Bharti House Limited (the **Transaction**).¹⁴ As a result, the Buyer will acquire sole control of the Target within the meaning of Article 2(1)(b) of the Competition (Jersey) Law 2005.

2.1.2 The Agreement also provides that the Buyer will acquire 100% of the shares of Bharti's 100% owned Guernsey subsidiary, Guernsey Airtel Limited (**GAL**) (the **Guernsey Transaction**).

2.1.3 See further the Introduction and Summary provided above for a fuller summary of the merger and rationale.

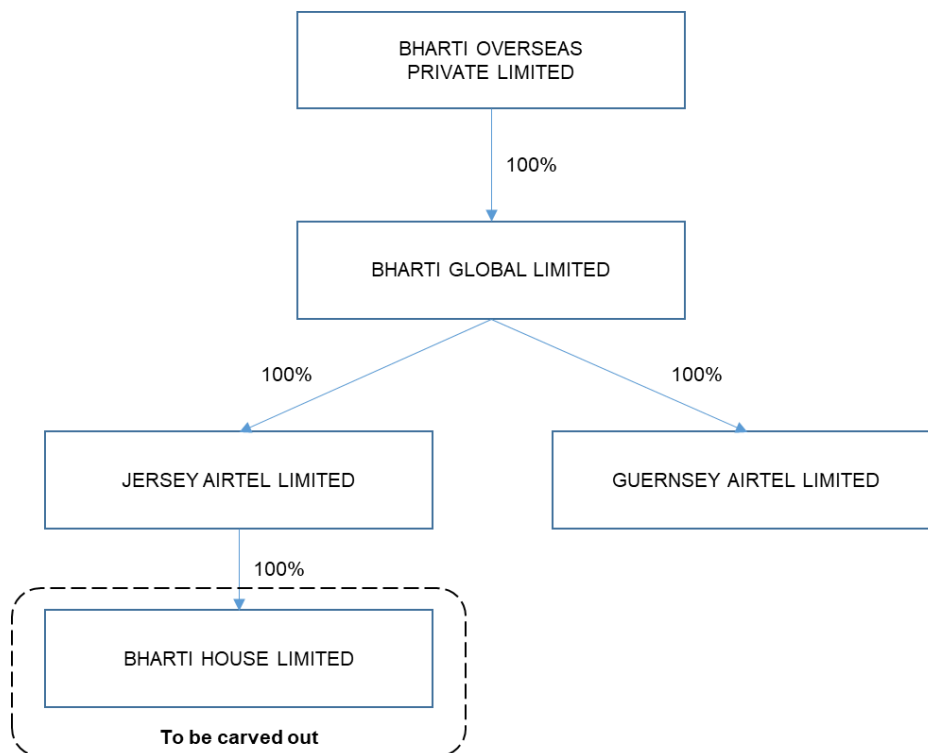
¹⁴ The Share Sale and Purchase Agreement is contained in Annex 2.5.2 to this notice.

2.2 *Indicate whether the merger involves the whole of the parties involved, or whether some divisions or subsidiaries of the parties are not involved in the merger.*

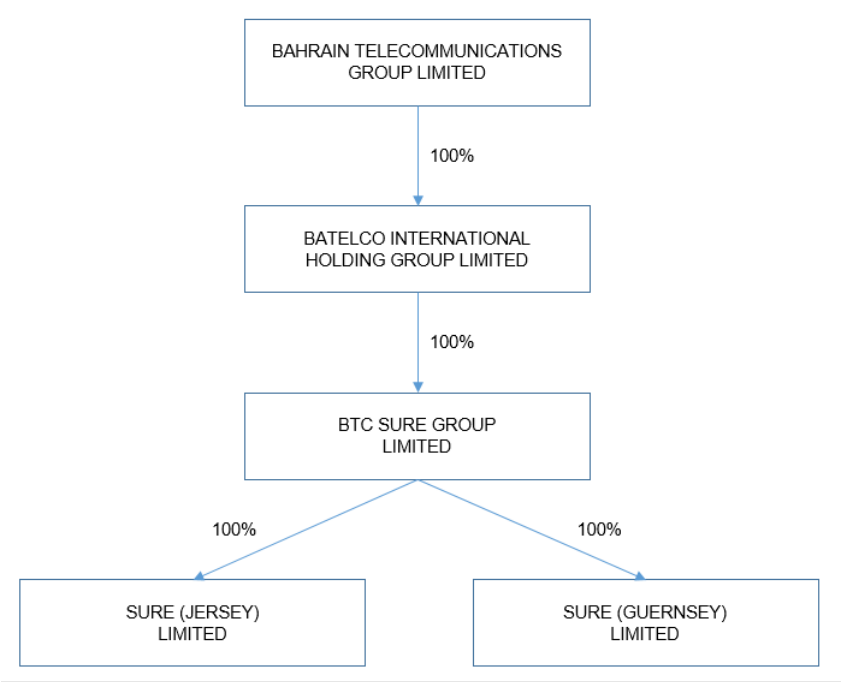
2.2.1 The Transaction is an acquisition of 100% of the Target, i.e. JAL, excluding JAL's 100% owned subsidiary Bharti House Limited.

2.3 *Provide a diagram showing the structure of the parties involved (including any companies which have ultimate control of the parties to the merger) before and after completion of the merger.*

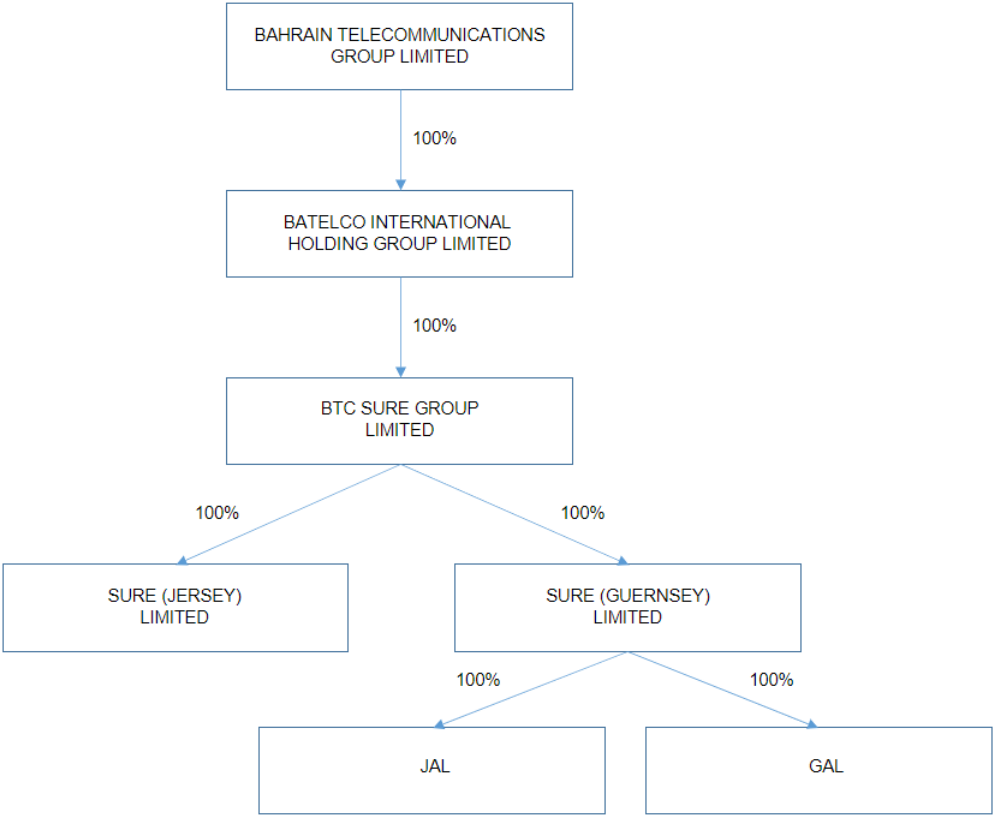
2.3.1 Target pre-merger



2.3.2 Buyer pre-merger



2.3.3 Post-merger



2.4 Provide details of any ancillary arrangements between the parties or their parent entities that you believe are directly related and necessary to implement the merger.

2.4.1 Transitional Services Agreement (“TSA”): the parties will enter into a TSA effective from Completion to ensure that: (i) certain services which the Target Companies currently receive on an intra-group basis from Airtel India continue to be provided for a transitional period following Completion until the Buyer is ready to replace them with its own services; and (ii) both parties have obligations relating to exit assistance and data migration to enable the Target Companies to be separated from the Seller’s group as appropriate in an orderly manner.

2.5 Provide a copy of the agreement between the parties effecting the merger (if available), and all ancillary agreements.

2.5.1 The Agreement is contained in Annex 2.5.2 to this notice.

2.6 Provide copies of all internal and/or external studies, analyses, reports, and surveys prepared by or for any of the parties for the purpose of assessing or analysing the benefits or effects of the merger on markets, market shares, competition, competitors, potential for sales growth or expansion into new markets, and indicate (if not otherwise contained in the document itself) the date of preparation, and the name and title of the principal person who prepared each document. This includes any documents submitted to or prepared for any member/s of the board of directors and/or the shareholders’ meeting for the purposes of assessing and analysing the merger.

2.6.1 The relevant documents are contained in Annexes 2.6.1 to 2.6.6 to this notice.

2.6.2 See Annex 5.2-A4, provided by Airtel by way of further background to Annex 2.6.5, in response to Request 2 of the 3 Oct RFI.

2.6.3 See also Annex 5.2-A2 and paras 1.2 and 1.4 of Airtel’s response to the 3 Oct RFI at Annex 5.2.

2.7 If the proposed transaction is a public bid, provide a copy of the Offer Document and Listing Particulars.

2.7.1 Not applicable.

2.8 Provide a copy of any press release (including those in specialist or trading journals) announcing the merger and details of any official notifications to stock exchanges.

2.8.1 Please see Annex 2.8.1 to this notice.

3. Details of the Parties

3.1 *Specify the industries, in Jersey and abroad, in which the parties to the merger, or, if different, their corporate groups, are active.*

3.1.1 Sure is a provider of mobile and fixed telecommunication services in the Channel Islands, as well as Ascension Island, the British Indian Ocean Territory (Diego Garcia), the Falkland Islands, Isle of Man, and St Helena. Sure provides a full range of fixed and mobile services for retail customers, and telecom, datacentre, cloud and cybersecurity solutions for businesses.

3.1.2 Batelco is a major communications company listed on the Bahrain Bourse with direct and indirect investments across various geographies including the Middle East and North Africa.

3.1.3 The Target is a provider of mobile and fixed telecommunication services in Jersey operating under the trading name Airtel-Vodafone.

3.2 *Provide the turnover for each party involved in the merger and, if different, their corporate groups, (i) worldwide, (ii) in Jersey, for the last financial year for which such information is available and for any available interim period in the current year.*

3.2.1 The turnover of the relevant entities is listed below:

Worldwide

Company	Turnover
Batelco	BHD 399,644,000 ¹⁵
Sure Group	GBP [X] Financial year ended 31 December 2021
Target	GBP [X] Financial year ended 31 March 2022

¹⁵ GBP 781,031,262 converted as at 31 December 2021 (<http://oanda.com/currency-converter>).

Jersey

Company	Turnover
Sure	GBP [£] Financial year ended 31 December 2021
Target	GBP [£] Financial year ended 31 March 2022

3.3 Provide copies of the most recent annual reports, or (if no annual reports are available) the most recent audited financial statements, of the parties to the merger and, if different, their corporate groups.

3.3.1 The annual reports of the relevant entities are contained in Annexes 3.3.1 to 3.3.6 to this notice.

3.3.2 The Parties' management accounts and budget forecasts are contained at Annexes 5.1-S1 (for Sure) and 5.2-A1 and 5.2-A2 (for Airtel) in response to Request 1 of the 3 Oct RFI.

3.3.3 Airtel's return on capital employed is included at Annex 5.2-A3 in response to Request 1 of the 3 Oct RFI.

4. Effects on Competition

4.1 Specify each category of good or service produced, supplied, distributed or otherwise sold in Jersey during the previous two years by each party involved in the merger and provide each party's sales in Jersey for each category listed.

4.1.1 In Jersey, Sure operates fixed and mobile networks, as well as being active in the provision of data centre services, cloud and cyber security. It is active in the retail supply of fixed and mobile telephony and fixed internet access services together with certain wholesale mobile services such as call termination and roaming.

4.1.2 The Target is primarily active in the supply of retail mobile telephony and operates its own mobile network. Until late 2021, it was exclusively active in mobile telephony.¹⁶ In November

¹⁶ The Telecommunications Statistics and Market Report 2021 (the **2021 Report**), footnote 6.

2021, it launched a fixed broadband offer, although this remains entirely *de minimis* (less than one half of one percent market share). [REDACTED]¹⁷

4.1.3 Sure understands that Airtel also began to offer fixed voice services in Jersey as part of its nascent fixed internet access offer in July 2022.

4.1.4 The main activities of the parties – and the relevant horizontal overlaps – may be summarised as follows:

Activity	Sure	Target	Overlap
Retail Mobile	Yes	Yes	Yes
Retail Fixed Internet Access	Yes	Yes (<i>de minimis</i>) ¹⁸	Yes (<i>de minimis</i>)
Retail Fixed Telephony	Yes	Yes (<i>de minimis</i>) ¹⁹	Yes (<i>de minimis</i>)
Retail Multi-play	Yes	Yes (<i>de minimis</i>) ²⁰	Yes (<i>de minimis</i>)
Retail Leased Line	Yes	No	No
Mobile Call Termination (Sure)	Yes	No	No
Mobile Call Termination (Airtel)	No	Yes	No
Wholesale International Roaming (inbound to Jersey)	Yes	Yes	Yes

¹⁷ [REDACTED]. Please see Sure and Airtel's responses to Request 3 of the 3 Oct RFI at Annexes 5.1 and 5.2. See also [REDACTED] and [REDACTED].

¹⁸ Sure presentation "Consumer Competitor Comparison", June 2022, slide 19 at Annex 4.1.1.

¹⁹ Sure understands that Airtel only began to offer fixed voice services in Jersey as part of its nascent fixed internet access offer in July 2022.

²⁰ Sure presentation "Consumer Competitor Comparison", June 2022, slide 19 at Annex 4.1.1.

4.1.5 The sales of the respective parties by product category are set out below. This information is taken from the regulatory returns of the parties.

Category	Sure		Airtel	
	2020	2021	2020	2021
Retail Mobile (See Note 1)	[X]	[X]	[X]	[X]
Retailed Fixed Telephony	[X]	[X]	[X]	[X]
Retailed Fixed Internet Access	[X]	[X]	[X]	[X]
Retail Multi-play	See Note 2			
Leased lines	[X]	[X]		
Mobile Call Termination	See Note 3			
Wholesale International Roaming	[X]	[X]	[X]	[X]
Data centre	[X]	[X]	[X]	[X]
Other and wholesale (see Note 4)	[X]	[X]	[X]	[X]
Total	[X]	[X]	[X]	[X]

Source: 2021 returns of respective parties to Statistics Jersey. Enclosed within data pack in Annex 4.4.2

Notes: (1) Retail mobile figures are presented exclusive of handset-related revenues (which are captured in the 'Other' line) and in-roaming revenues (which are captured under the 'Wholesale International Roaming' line). (2) Retail multi-play revenues are not reported separately from mobile/fixed line revenues in the parties' regulatory returns. These are therefore captured in those individual lines. In any case, competitive overlap between the parties in this area is considered minimal, given Airtel only entered this area in late 2021 – see section 4.5 for further details. (3) Mobile call termination revenues not split out separately in the parties' regulatory returns, and are captured in the 'Other' line. In any case, the parties do not compete in this market, as explained in section 4.2. (4) This category includes handset revenues; mobile call termination revenues; and various other miscellaneous revenues such as accessories.

4.2 With reference to Guideline 7 – Market Definition, explain what you consider to be the economic market(s) for the purpose of assessing the competition effects of the merger, giving reasons. Markets should be defined in terms of (i) product; and (ii) geography.

4.2.1 In line with the JCRA Guidelines,²¹ the following market definitions are based on relevant sources of EU competition law, including the recent decisions of the European Commission (EC) under the EU Merger Regulation (Regulation 139/2004), and in particular Case M.10153

Orange/Telekom Romania Communications (Orange/Telekom Romania),²² the EC's most recent decision involving mobile telephony markets. These are the markets where there is overlap between the activities of the parties. For completeness, mobile call termination is included, although the parties note that each holds a 100% share of the market for terminating calls on their network such that there is no overlap.

- 4.2.2 Consistent with the general position taken in previous EC decisions²³ and the 2021 Report,²⁴ the parties consider that the relevant geographic market for all the segments identified below is national in scope (i.e. Jersey).

Retail supply of mobile telecommunications services

- 4.2.3 The parties consider there to be a separate relevant product market for retail mobile telecommunications services – covering voice calls, SMS and mobile internet data services, regardless of the type of network technology (2G, 3G, 4G etc). This is consistent with the approach taken in the 2021 Report, and EC precedent.²⁵ The market for retail mobile telecommunications services is the predominant market where the parties' activities will overlap as a result of the proposed Transaction.
- 4.2.4 Consistent with the approach of the 2021 Report, the parties do not consider it appropriate to segment the market further between residential and business users.²⁶ The parties also do not consider it appropriate to segment the market further between pre-paid and post-paid users, consistent with EC precedent.²⁷
- 4.2.5 In previous decisions, including *Orange/Telekom Romania*, the EC has left open the question of whether over-the-top (OTT) services should be included in the relevant market for mobile telecommunications services.²⁸ OTT messaging and voice services can be used interchangeably with traditional mobile services and, as noted in the 2019 Review of the Isle of

²² *Orange/Telekom Romania*, decision of 28 July 2021, available at: https://ec.europa.eu/competition/mergers/cases1/202212/M_10153_8224980_614_3.pdf.

²³ *Orange/Telekom Romania*, *supra*, paragraphs 23 to 26, and the decisions cited therein.

²⁴ Telecommunications Statistics and Market Report 2021 <https://www.icra.je/cases/2021/t-053-telecommunications-statistics-and-market-report-2021/>.

²⁵ *Orange/Telekom Romania*, *supra*, paragraphs 12 to 22, and the cases cited therein.

²⁶ 2021 Report, *supra*, pages 21-31. In the case of fixed broadband users, the 2021 Report notes that it is difficult to draw a clear distinction between residential and business users of mobile telecommunications services in the Channel Islands due to the tendency for small businesses to use services primarily designed for residential use, 2021 Report, page 15. In the view of the parties, this is generally true in relation to retail telecommunications services in the Channel Islands.

²⁷ *Orange/Telekom Romania*, *supra*, paragraph 12.

²⁸ *Orange/Telekom Romania*, *supra*, paragraphs 12 to 22, and the cases cited therein.

Man Mobile Communications Markets, there is evidence that OTT applications are increasingly being used to make voice calls and send messages, particularly in situations where calls/messages are not covered by customers' free minutes/messages packages.²⁹ In Ireland for example, around a quarter of consumers use OTT to make voice calls at least once per day.³⁰ However, on a cautious basis, the parties have excluded OTT services from the mobile market share figures cited below, noting that in practice the parties will face wider competitive constraints from services such as these.

Retail supply of fixed telephony services

- 4.2.6 The parties consider there to be a separate relevant product market for fixed telephony services, encompassing fixed telephony lines and VoIP services. This is consistent with the approach taken in the 2021 report³¹, and EC precedent.³² The parties do not consider it appropriate to segment the market further as between residential and business users or between pre-paid and post-paid users, consistent with EC precedent.³³

Retail supply of fixed internet access services

- 4.2.7 The parties consider that the relevant product market is the overall retail market for the provision of fixed internet access services, including all product types, distribution modes (DSL, cable, fibre, fixed-wireless access (**FWA**)) e.g. WiMax and speeds/bandwidths, to residential and small business customers.³⁴ Consistent with the 2021 Report,³⁵ and EC precedent,³⁶ the parties consider that fixed internet access market excludes wireless access via mobile network infrastructure (**fLTE**).
- 4.2.8 Consistent with the approach of the 2021 Report, the parties do not consider it appropriate to segment the market further between residential and business users. As set out in the 2021 Report, it is difficult to draw a clear distinction between the two types of services because of the tendency for small businesses to use services primarily designed for residential use, and

²⁹ Market Review 2019, Review of the Isle of Man Mobile Communications Markets.

³⁰ Response to Consultation and Decision FVCT & MVCT ComReg 19/47, paragraph 3.133.

³¹ 2021 Report, pages 12 to 13.

³² *Orange/Telekom Romania, supra*, paragraphs 27 to 32 and the case cited therein.

³³ *Orange/Telekom Romania, supra*, paragraph 32.

³⁴ Since 2019 at least, virtually all fixed broadband services in Jersey are based on fibre connections of at least 250Mbps download speed (rising to 500Mbps in 2020). No further speed-based segments have therefore been considered. It is believed Homenet may continue to provide some connections via WiMAX service.

³⁵ 2021 Report, *supra*, page 15.

³⁶ *Orange/Telekom Romania, supra*, paragraphs 37 to 46, and the case cited therein.

business users are in any event thought to represent only around order of 5% of the total subscriber base.³⁷

Retail supply of multiple play services

- 4.2.9 The parties believe that a separate relevant product market may be developing for “multiple play” offers/services, i.e. packages of services provided by the same provider covering a combination of two or more of the following: mobile telecommunications services, fixed telephony services, fixed internet access and/or audio-visual services.³⁸ This is consistent with the position taken in recent EC decisions.³⁹ The parties have therefore provided market share data and analysis in relation to multiple play services.

Wholesale supply of call termination services on mobile networks

- 4.2.10 Call termination is the service provided by a network operator on the supply side to other network operators on the demand side, whereby a call originating on a demand side operator’s network is delivered to a user on the supply side operator’s network. This service is required by every originating operator, as it is necessary for its customers to be able to communicate with customers of other networks.⁴⁰ There is no substitute for call termination on each individual network.⁴¹ The parties consider there to be a separate relevant market for the wholesale supply of access and call termination services on mobile networks. This is consistent with EC precedent,⁴² and UK market reports.⁴³

Wholesale supply of international roaming services

- 4.2.11 The parties consider that international roaming services constitute a distinct product market consistent with EC precedent.⁴⁴
- 4.2.12 As noted above the Parties do not consider that the available evidence supports a single geographic market covering the whole of the Channel Islands. Please see further Sure’s

³⁷ 2021 Report, *supra*, page 15.

³⁸ *Orange/Telekom Romania, supra*, paragraph 62.

³⁹ *Orange/Telekom Romania, supra*, paragraphs 64 to 71.

⁴⁰ This is distinct from the market for the wholesale supply of access and call termination services on fixed networks.

⁴¹ As the operator can only reach a recipient through the relevant operator of the network to which the recipient is connected.

⁴² *Orange/Telekom Romania, supra*, paragraphs 185 to 188.

⁴³ Market Review 2019, Review of the Isle of Man Mobile Communications Markets, paragraph 4.23.

⁴⁴ *Orange/Telekom Romania, supra*, paragraphs 1, 2, 202 and 203 (all page 35) and the cases cited therein.

response to Request 4 of the 3 Oct RFI at Annex 5.1, and the Parties responses to the 20 Oct RFI at Annex 6.1 and 6.2.

4.3 For each of the market(s) identified in 4.2, identify the areas of overlap between the parties to the merger, as appropriate.

Activity	Sure	Target	Overlap
Retail Mobile	Yes	Yes	Yes
Retail Fixed Internet Access	Yes	Yes (<i>de minimis</i>) ⁴⁵	Yes (<i>de minimis</i>)
Retail Fixed Telephony	Yes	Yes (<i>de minimis</i>)	Yes (<i>de minimis</i>) 46
Retail Multi-play	Yes	Yes (<i>de minimis</i>) ⁴⁷	Yes (<i>de minimis</i>)
Wholesale International Roaming (inbound to Jersey)	Yes	Yes	Yes

4.3.1 As noted above, whilst both Sure and Airtel are present in the market for mobile call termination, there is no overlap as each holds a 100% share for terminating calls on their own network. As a result, the parties have focused on the above five markets where there is an overlap, noting however that the only substantive overlap arises in the market for retail mobile.

4.4 For each of the market(s) identified in Jersey, specify market shares before and after the merger, for each competitor (including the merging parties). Explain how you have calculated market shares and provide supporting evidence (e.g., turnover of the parties in the relevant market compared to turnover in Jersey as a whole).

4.4.1 Market share data on a revenue basis is provided in relation to each of the horizontally affected markets in the responses to question 4.5 below. Further detail, including volume-based market shares and methodology is set out in Annex 4.4.1.

⁴⁵ Sure presentation "Consumer Competitor Comparison", June 2022, slide 19 at Annex 4.1.1.

⁴⁶ Sure understands that Airtel only began to offer fixed voice services in Jersey as part of its nascent fixed internet access offer in July 2022.

⁴⁷ Sure presentation "Consumer Competitor Comparison", June 2022, slide 19 at Annex 4.1.1.

4.5 Provide a description of how competition works in the market(s) identified in 4.2 above. For example, do businesses compete on price, service, quality or innovation? What are the customary terms with suppliers and customers?

Introduction

- 4.5.1 The main metrics of competition across all the relevant markets include price, service, quality and innovation. Focusing on the main area of overlap in retail mobile, pricing is complex as all operators offer a variety of different packages, offering different degrees of included services (for example number of inclusive texts or calls and amount of inclusive data). This allows for significant differentiation between tariffs. In some cases, a further differentiating factor will be download speeds, which can be capped in exchange for a larger download package. In Sure's case, it has focused on offering truly unlimited packages, whilst offering different value propositions for customers by differential speeds across different price points. These range from a 3Mbps service to one that offers an unlimited package at Sure's market-leading maximum speeds.
- 4.5.2 In addition, all operators offer both pre-paid and post-paid packages across a very broad range of tariffs as explained in more detail below.
- 4.5.3 This means that even where two tariffs have similar monthly fees, comparisons are not straightforward given the need to assess the overall package. In addition, as set out in more detail below market leader JT will typically provide vouchers, in particular as part of its multiplay bundles (for example 'free £100 JT voucher with sign-up' type deals), to further increase the competitiveness of its offer.
- 4.5.4 In addition to price, non-price aspects of competition will also influence consumer decisions over their choice of provider. These will include the quality of the network and brand perceptions, including customer service.
- 4.5.5 Continued network innovation is also an essential element of competition for mobile network operators, which will include innovation in features such as coverage, network resilience and speed. From a review of publicly available sources and the parties' information, it appears that Sure is the most active of the island's operators in this regard, having demonstrated a clear commitment to the rollout of the latest 4G technologies (such as Voice over LTE, IP SMS Gateways, and Multiple-Input/Multiple-Output) and having conducted a 5G trial in 2019. During the most recent round of independent tests (2017 drive tests conducted by CICRA), Sure's network was found to be superior to that of Airtel (see section 4.16.11).
- 4.5.6 These aspects of competition, including static and dynamic analyses of the key metric of price are set out further below.

- 4.5.7 In addition, the Introduction and Summary above sets out a fuller explanation of the Transaction rationale and benefits. As noted, the Transaction will deliver key benefits to Jersey consumers and business across the key metrics of competition, which include all of price, service, quality and innovation. The combination of Sure and Airtel offers a unique opportunity to create a more effective competitor to JT in Jersey, whose pre-eminence across all telecommunications market is reflected in its 71% share of total sector revenues.
- 4.5.8 The benefits to customers due to the Transaction are set out in more detail in the section below on efficiencies and customer benefits. The parties believe this to be a unique opportunity for the Bailiwick of Jersey to create a stronger competitor to JT, one that is able to invest strongly in raising the quality of its network and services and creating consumer value, including the delivery of a 5G next generation network.
- 4.5.9 This enhanced network-based competition will be facilitated by a further investment of up to £48m by Sure to build a state-of-the-art, 5G network across the Channel Islands as they integrate the two businesses.
- 4.5.10 In the remainder of this section, the parties provide assessment against the five areas identified in response to question 4.3 above as well as the mobile call termination markets for completeness. Given the limited overlap in other markets, the main focus is on retail mobile.

Retail supply of mobile telecommunications services

Non-coordinated effects

- 4.5.11 Although the largest telecommunications segment in Jersey, representing approximately 36% of total industry revenue,⁴⁸ the retail mobile market is, by international standards, small, crowded and fully penetrated. Four operators, including three mobile network operators (**MNOs**), collectively represent just under 125 thousand subscriptions,⁴⁹ at a rate of approximately 120 subscriptions per 100 inhabitants.⁵⁰
- 4.5.12 JT is the current market leader, by some considerable distance. Its current market share is in excess of 40-60% by value,⁵¹ and it has held a market share in excess of 40-60% since at least

⁴⁸ 2021 Report, *supra*, page 9.

⁴⁹ Market shares analysis, Annex 4.4.1.

⁵⁰ A fourth operator, Homenet, has retail access to these MNO networks in Jersey for the provision of data services only (2021 Report, *supra*, page 21).

⁵¹ Market shares analysis, Annex 4.4.1.

2016 by volume (value shares are available only from 2019).⁵² The three other players in the market, Sure, the Target and Homenet,⁵³ have substantially lower shares at 20-30%, 10-20% and 0-5% by value respectively. A complete picture for the period 2019 to 2021 is set out in the table below:

Market shares by revenue (%)			
	2019	2020	2021
Sure	20-30%	20-30%	20-30%
Airtel	10-20%	10-20%	10-20%
<i>Combined</i>	<i>30-50%</i>	<i>30-50%</i>	<i>30-50%</i>
Jersey Telecom	50-70%	50-70%	50-70%
Homenet	0-5%	0-5%	0-5%
Total	100%	100%	100%

Source: Analysis of Statistics Jersey Market Reports (2019-2021) and the parties' respective regulatory returns. See Annex 4.4.1 for further details. Calculations enclosed within data pack, see Annex 4.4.2.

- 4.5.13 The Transaction will bring together the activities of the second and third players in the market (Sure and Airtel) to create a new entity with increased scale, better able to invest in its network and compete aggressively with JT.⁵⁴ In terms of revenues and market shares, the new entity will remain some way behind JT with a combined market share by revenue of just under 40-50% some 10-20% less than JT (50-60%).
- 4.5.14 JT has grown its market share from [X] to [X] in volume terms since 2018 and from [X] to [X] in value terms from 2019, while those of Sure and Airtel have remained stable or fallen. As explained above, including in the Introduction and Summary, the Transaction will allow the merged entity to function as a more effective competitor to JT.

⁵² 2021 Report, *supra*, page 23, Table 6 (2016 to 2021) and market share analysis, Annex 4.4.1 (2019 to 2021).

⁵³ Homenet is included in the 2021 Report as it offers some data only plans over 4G. It is not however a mobile network operator.

⁵⁴ Project Evolve, Introductory Presentation, 13 May 2022, slide 9 at Annex 2.6.4.

4.5.15 Conversely, the Transaction does not represent a merger between closest competitors. Switching data shows that Sure and Airtel lose and gain customers primarily to/from JT (their closest competitor), rather than each other – as set out in Fig 1 below:

Figure 1: Porting analysis of Jersey operators, 2021

		To			
		Sure	JT	Airtel	Ports out
From	Sure		✂	✂	✂
	JT	✂		✂	✂
	Airtel	✂	✂		✂
Ports in		✂	✂	✂	
Ports out (read across relevant row)		✂	✂	✂	
Net gain/loss		✂	✂	✂	

Source: Analysis of data provided by Airtel. Enclosed within data pack, see Annex 4.4.2.

4.5.16 As shown in Fig 1, in 2021:

- of Airtel's ✂ lost customers, ✂ went to JT, while only ✂ went to Sure;
- of Sure's ✂ lost customers, ✂ went to JT, while only ✂ went to Airtel;
- of Airtel's ✂ customer gains, ✂ were from JT, while only ✂ were from Sure;
- similarly, of Sure's ✂ customer gains, ✂ were from JT, while only ✂ were from Airtel.

4.5.17 Overall, however, it is worth noting that levels of switching were relatively low by international standards.⁵⁵

⁵⁵ For instance, [Ofcom \(2015\) 'Consumer switching in mobile'](#) cited switching rates of 9% in the UK in 2013, declining to 6% in 2014 (paragraph 1.14). This was in the context of seeking to make a regulatory intervention to enable easier switching from consumers.

4.5.18 As noted above and consistent with precedent, the parties submit that there is one overall market for retail mobile services. However, for ease of exposition we present the pre-paid and post-paid portions of the market separately in the analysis below. For context, it is noted that the post-paid portion accounts for the majority of the market, being 69% of subscriptions by volume in 2021 and a higher proportion by value. The pre-paid portion of the market has been steadily declining in volume for at least five years, from 41% in 2016 to less than a third in 2021.⁵⁶

Post-paid portion of the market

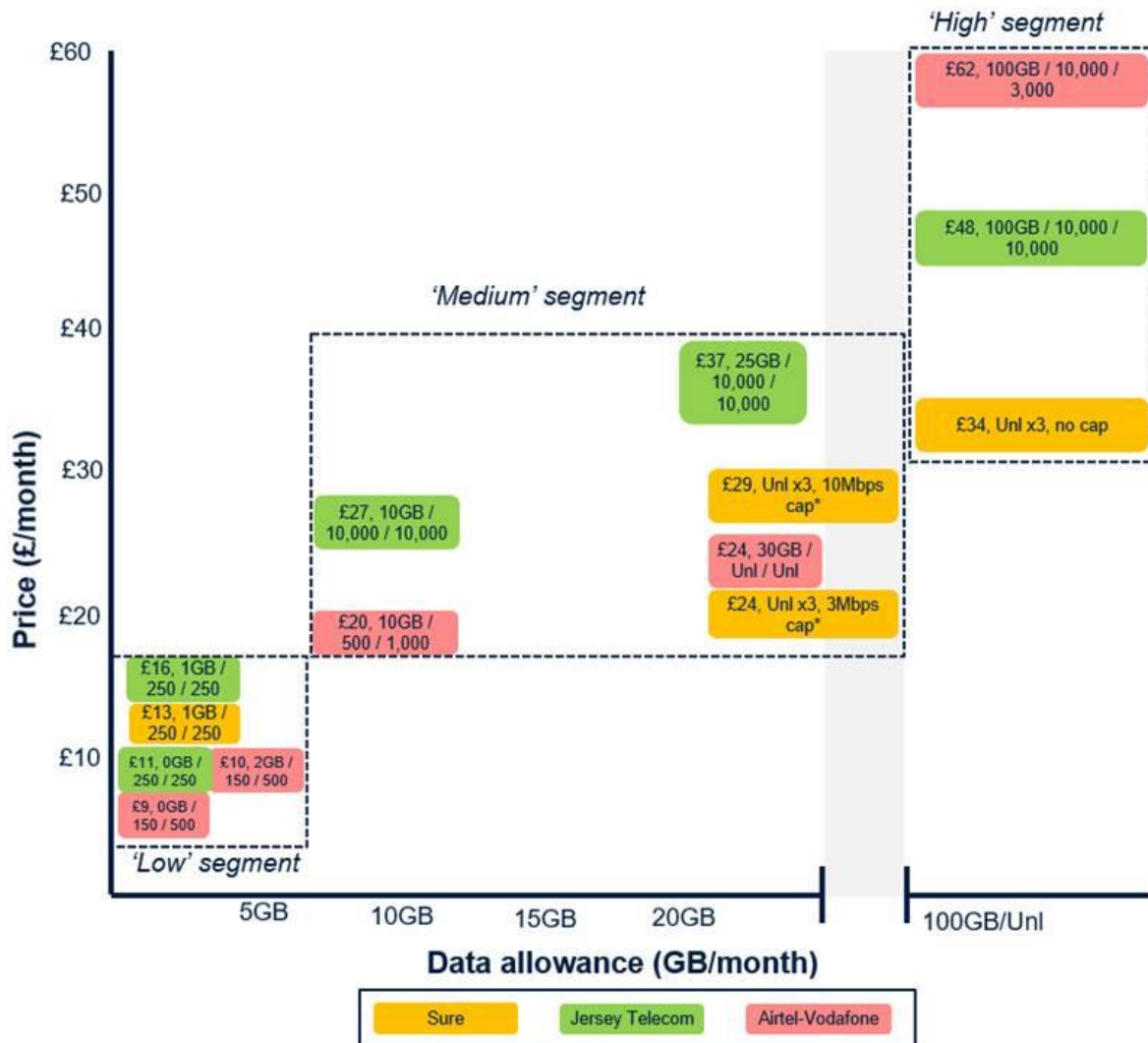
4.5.19 In terms of pricing and positioning, Fig 2 sets out the static position in 2022. A large number of plans can be configured on the websites of Airtel and JT, and so not every possible combination is shown. Efforts have nevertheless been made to identify plans in key portions of the market on broadly comparable terms. As can be seen, this shows:

- All three players have a variety of offerings in the 'low' portion of the market. Airtel are the lowest priced player in this segment; with Sure being the next best option if a user requires some data allowance; and JT if the user does not. Sure has proposed specific remedies to address any potential concerns in this portion of the market; ☒.
- All three players have distinct offerings in the mid-range; the most popular segment of the market by sales volumes.⁵⁷ The best-selling products of both Airtel ([☒]) – and Sure ([☒]) are located in this portion of the market. Although the parties' offerings are distinct, Sure has proposed specific remedies to alleviate any potential competition concerns in this portion of the market; ☒.
- Sure leads the market at the high end, whilst both Airtel and JT have high price offers which do not include truly unlimited data. As noted above, Sure has included a commitment ☒.

⁵⁶ 2021 Report, page 22.

⁵⁷ Sure calculates that [☒] of its sales lie within the medium segment.

Figure 2: Current SIMO price/bundle positioning of Sure, JT and Airtel within Jersey



Notes: Boxes show price, data allowance, minutes allowance and SMS allowance in respective order. Plans do not include roaming outside the CIs, except in the case of Sure where plans also include 0/1/3/5GB of UK/EU data (in ascending price order). (*) These Sure plans – whilst they contain unlimited data – have been classified as ‘medium’ due to the speed caps they are subject to. The high segment has been reserved for plans containing 100GB+ of data and speeds which are unrestricted (other than by network performance).

Source: Analysis of the respective websites of Sure, JT and Airtel, 20th June 2021.

4.5.20 A more dynamic analysis of the period through 2018 to 2022 shows that Sure and Airtel typically play differing roles in the market; and are not generally close competitors. Were Airtel perceived to play a valuable role in a certain corner of the market, targeted commitments have been proposed in order to ensure that this role is preserved in the future.

4.5.21 The following sub-sections provide supporting evidence on these points also considering interactions over the past 5 years, taking the three price-quality segments (low, medium, and high) in turn.⁵⁸

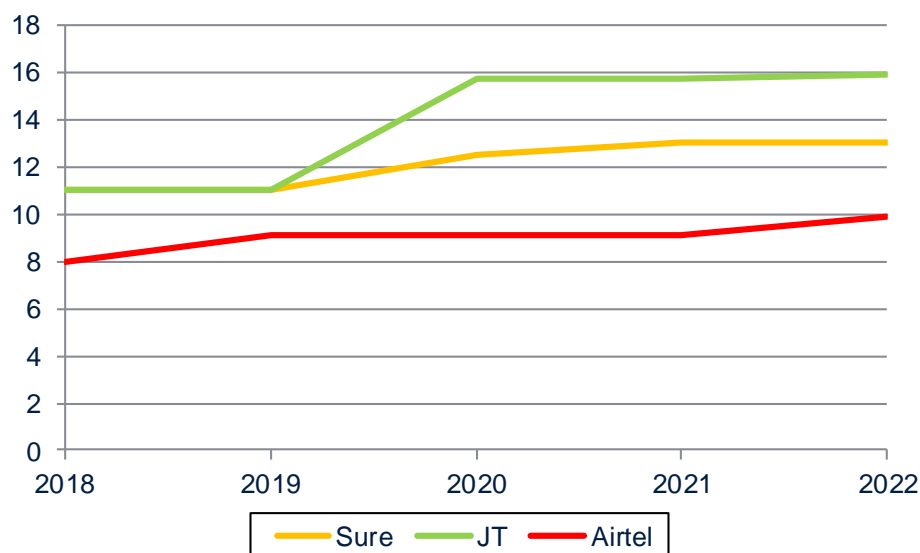
Low end segment

4.5.22 Figure 3 below presents an analysis of the pricing of SIM-only plans at the 'low' end of the market, between 2018 and 2021

4.5.23 A representative tariff has been chosen for each operator being the cheapest available tariff which also includes at least some amount of data.

4.5.24 Although data points are limited, the figures suggest limited competitive interaction, with no examples of (for instance) players undercutting and then reacting to one-another.

Figure 3: Pricing of SIMO plans (£) at the 'low' end of the market – 2018 to 2022, Jersey



Notes: Based on analysis of SIM-only plans. Data not available for all years for all competitors; where there are gaps, a linear interpolation has been made.

⁵⁸ The large array of tariffs available – and their propensity to change over time – means some degree of judgement is required in comparing plans. For instance, within the low segment, JT does presently have a plan available for c. £11/month, however this includes no data allowance. As Sure's most basic plan includes 1GB of data, a £5 1GB supplement was included with the JT plan to ensure a reasonable degree of comparability; whilst an Airtel plan with 2GB of data (the lowest non-zero amount which can be specified) was selected.

Source: Analysis of Sure (2022), '2015-2022 Tariff History – Broadband and Pay Monthly Mobile positions and competitive landscape', internal document at Annex 4.5.1, and historic public pricing data sourced from the 'Way Back Machine' internet archive. Enclosed within data pack, see Annex 4.4.2.

Medium segment⁵⁹

- 4.5.25 As outlined further above, the medium segment is the most popular area of the market in terms of sales volumes; Sure calculates this segment comprises [redacted] of sales by volume.
- 4.5.26 The plans compared in this segment have typically been those in the range of 5-10GB of data. However from 2019 the Airtel figures represent its 'Islander Plan Plus', which includes 30GB of data, beyond which a user can continue using data, but at a throttled download speed of [redacted]. As of 2022, this plan is priced at £24.14 p/m inc. GST.
- 4.5.27 Further Sure restructured its packages in 2021 and became the most expensive player in the medium segment whilst also offering the most generous allowances (with data becoming truly unlimited, subject to a tiered speed cap).⁶⁰ As of 2022, Sure's 'Unlimited Standard' plan (download speeds capped at 10Mbps) was priced at £29 p/m, whilst a lower priced 'Unlimited Basic' plan is offered by Sure for £24 p/m (download speeds capped at 3Mbps).⁶¹ The 'Unlimited Standard' plan is shown in Figure 4 below.
- 4.5.28 There are therefore numerous differentiating factors in this portion of the market. For instance, Sure's £24 'Unlimited Basic' and Airtel's £24.14 'Islander Plan Plus' might be considered – prima facie – closer competitors, given the similar price points and generous/unlimited allowances. However this neglects the fact that the Sure plan is capped at 3Mbps download speed, which Airtel's plan would be generally expected to exceed in terms of download speed despite its lower quality network (see CICRA Drive Test results in section 4.16.11).
- 4.5.29 JT has a balanced offering in this portion of the market, with a £27 p/m plan available, which is not subject to speed caps, but is limited to 10GB of data.
- 4.5.30 Therefore it is considered that all players have distinct offerings in this portion of the market; trading off price, data allowance and download speeds. Importantly, as illustrated by the 2020 changes in Sure's pricing – which were not a reaction to and did not trigger response in Airtel's

⁵⁹ The figures for the 'medium' market segments include offerings typically in the range of 5-10GB of data. However, from 2019 the Airtel figures represent its 'Islander Plus Plan', which was launched in that year and included a 30GB data allowance (at uncapped download speed). Beyond 30GB, a user could continue using data, however download speeds would be 'throttled'. The relevant Sure package included unlimited data (with a 10Mbps speed cap) from March 2021.

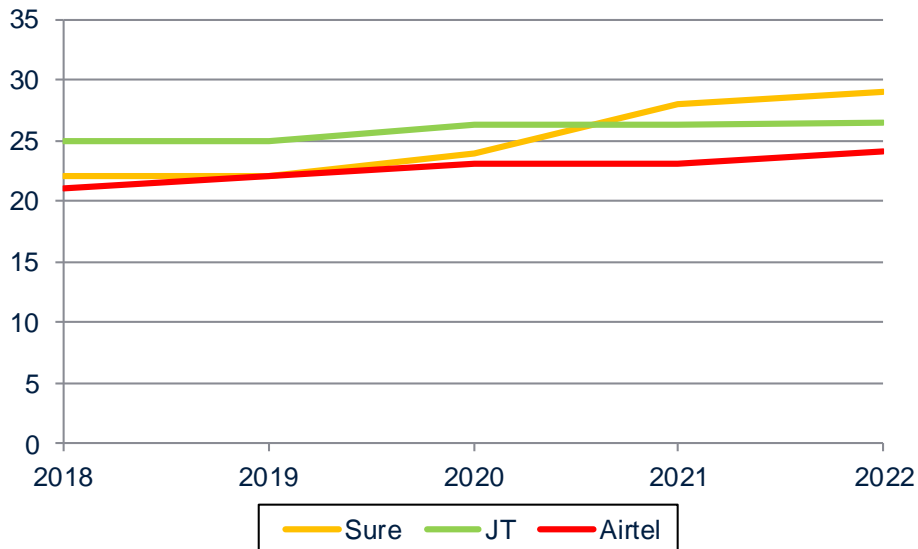
⁶⁰ At this point Sure's plans became polarised between offering 1GB or unlimited data, and therefore the bottom two of the three Sure plans identified have been captured within this medium segment. This is considered appropriate, [redacted]

⁶¹ This is the minimum speed required to stream content in HD, e.g.: <https://help.netflix.com/en/node/306>

pricing – there appears to be little significant competitive interaction between Sure and Airtel in this segment.

4.5.31 In order to address any potential competition concerns arising in this portion of the market, Sure has undertaken \times .

Figure 4: Pricing of SIMO plans (£) in the ‘medium’ segment of the market – 2018 to 2022, Jersey



Notes: Based on analysis of SIM-only plans. Data not available for all years for all competitors; where there are gaps, a linear interpolation has been made.

Source: Analysis of Sure (2022), ‘2015-2022 Tariff History – Broadband and Pay Monthly Mobile positions and competitive landscape’, internal document at Annex 4.5.1, and usage of the ‘Way Back Machine’ internet archive. Enclosed within data pack, see Annex 4.4.2.

High-end segment

4.5.32 We have defined plans in this portion of the market being those which contain very high data allowances, being either 100GB or truly unlimited.⁶²

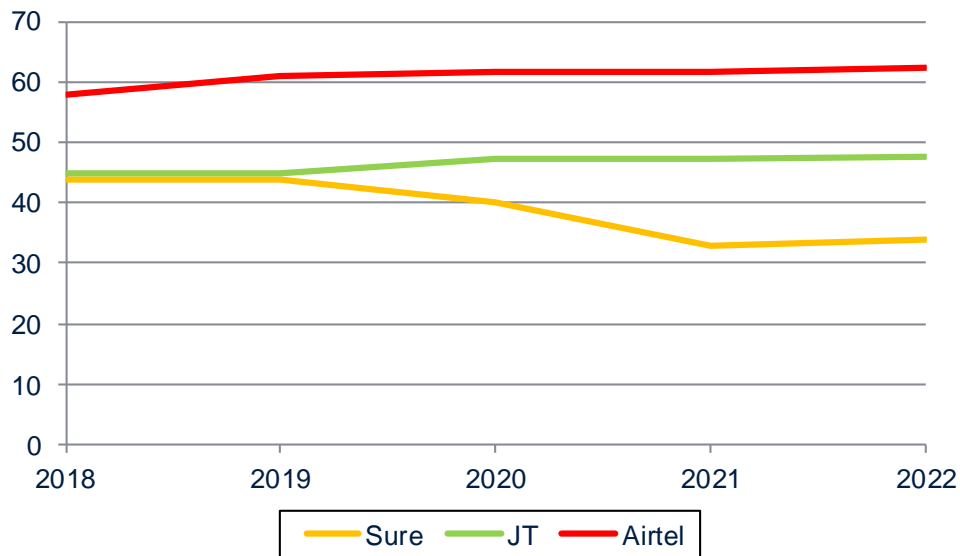
4.5.33 Figure 5 below shows that Airtel and Sure are not close competitors within this portion of the market.

⁶² Therefore this excludes Airtel’s Islander Plus Plan, which as analysed in the ‘Medium segment’ sub-header above is subject to significant speed throttling beyond 30GB of data usage. It is considered likely that heavy data users are also likely to be users who value download speeds, and so continuing beyond 30GB at a severely reduced speed is not considered likely to be a realistic option for these users.

- 4.5.34 For much of the period prior to March 2021, Sure and JT appeared to be the two closest players, with them being closely aligned on price; and both significantly cheaper than Airtel for a 100GB plan.
- 4.5.35 Further, since 2019, Sure has clearly demonstrated leadership in its offerings in this portion of the market; reducing plan costs of its 100GB option between 2019 and 2020; before further improving its offer by launching unlimited data plans in March 2021. The plan captured for Sure from this point is its 'Unlimited Max' plan.
- 4.5.36 This plan simultaneously has the most generous allowances on the market (neither Airtel nor JT's plans include truly unlimited data; and this plan also includes UK/EU data roaming as standard which JT/Airtel do not); the lowest price of any 'high' plan; and is hosted on the network indicated to be the fastest by download speed in Jersey.⁶³
- 4.5.37 It is noted that some portion of the cost of plans in this 'high' portion as presented is attributable to high minutes/SMS allowances. For instance, the current £62 Airtel plan (10,000 minutes and 3,000 SMS) was chosen for maximum comparability with the Sure and JT plans (which include unlimited calls/SMS in the case of Sure, and 10,000 minutes/SMS in the case of JT). The Airtel plan could be specified with just 150 minutes and 500 SMS for £40 p/m, or 500 minutes and 1,000 SMS for £44 p/m. Similarly the JT plan could be specified with 250 minutes and SMS for £42 p/m. It is not considered that this materially affects the analysis, since even compared to these pared back Airtel/JT plans, Sure's plan is still clearly the leading offer in this portion of the market with respect to allowances and price.⁶⁴
- 4.5.38 Therefore it is not considered that Airtel and Sure are remotely close competitors in this portion of the market; and Airtel's removal will have no impact upon competition given its status as a high-priced outlier; and Sure's as leading the market in terms of both allowance and value.

⁶³ See Table 5 in section 4.16.11.

⁶⁴ We note that both parties' inclusive minutes can be used for calls from the Channel Islands to a select group of overseas numbers. For Sure, that includes the Channel Islands, Isle of Man, UK and the Republic of Ireland. For Airtel, that includes the Channel Islands, UK, Portugal, Poland, Republic of Ireland, Romania, India, Bangladesh, USA, South Africa and Australia.

Figure 5: Pricing of SIMO plans (£) at the 'high' end of the market – 2018 to 2022, Jersey

Notes: Based on analysis of SIM-only plans. Data not available for all years for all competitors; where there are gaps, a linear interpolation has been made.

Source: Analysis of Sure (2022), '2015-2022 Tariff History – Broadband and Pay Monthly Mobile positions and competitive landscape', internal document at Annex 4.5.1, and usage of the 'Way Back Machine' internet archive. Enclosed within data pack, see Annex 4.4.2.

Pre-paid portion of the market

4.5.39 In the pre-paid portion of the market, users buy top-ups which contain a set amount of data, minutes and SMSs which are then valid for a given period of time. As set out above in paragraph 4.5.18, pre-paid is a small and declining part of the overall mobile market and therefore is of limited relevance as compared to post-paid.

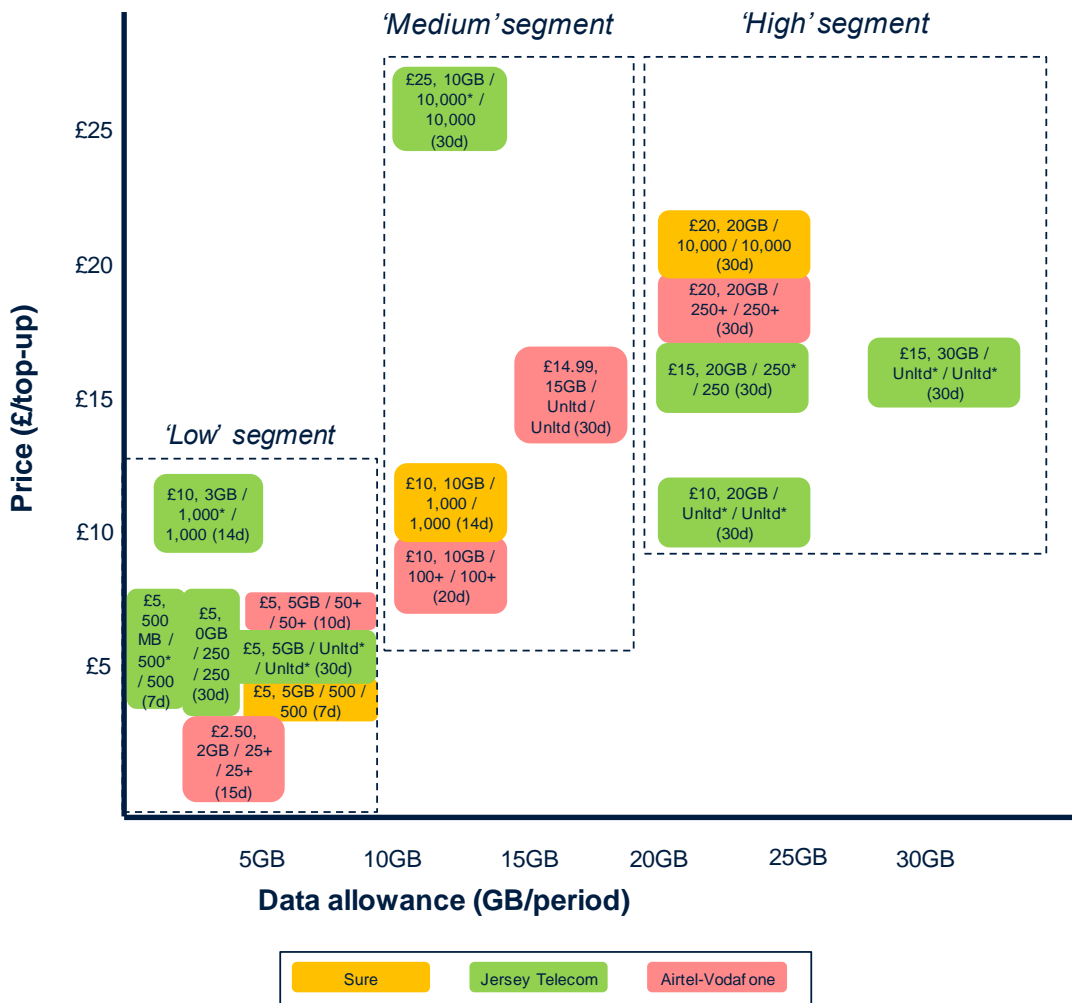
4.5.40 Each operators' pre-paid plans have individual characteristics, which can make like-for-like comparisons more difficult:

- Sure plans come with an unlimited data allowance for the entire validity period if purchased via Sure's app; although in this analysis we have included the allowances for users who top up at retail outlets;
- JT also offer plans which are considerably more generous if the user purchases them via the JT app. Furthermore, many JT plans include unlimited calls and/or SMSs to other JT mobiles; but it is not clear on the arrangement with regard to calls/SMSs to non-JT numbers. It appears that these may be charged on an out-of-bundle rate.

- Airtel’s plans typically include a set allowance for general calls/SMSs to non-Airtel numbers, but also include unlimited calls/SMSs to other Airtel mobiles.

4.5.41 Non-app only plans are therefore considered first in Figure 6 below. JT plans where call/SMS allowances only apply to other JT numbers are marked with asterisks next to the relevant allowance. A plus symbol denotes Airtel allowances which are unlimited to other Airtel devices.

Figure 6: Current pre-paid price/positioning of Sure, JT and Airtel within Jersey: exc app-only offers



Notes: Boxes show price, data allowance, minutes allowance, SMS allowance, and validity period in respective order. (*) symbols denote JT plans where the allowance only applies for calls/SMSs to other JT numbers. (+) symbols denote Airtel plans where the allowance shown is for calls/SMSs to all numbers, but the user also receives an unlimited allowance to other Airtel numbers.

Source: Analysis of Sure internal documents and websites of Sure, JT and Airtel accessed on 8 August 2022.

4.5.42 The market can be broadly segmented into a ‘low’ segment (where data allowances are of up to 5GB); a ‘medium’ segment ; and a ‘high’ segment (where allowances are typically 20GB+).

4.5.43 Sure and Airtel appear to have plans which are closely positioned in terms of allowance/price (with respect to data); but are distinguished by the fact that Sure plans contain more generous call/SMS allowances, whilst the Airtel ones have a longer validity period. It should also be noted that Sure’s plans can all be upgraded to contain unlimited data for the user, if they are willing to purchase via Sure’s app.

4.5.44 In most of the three broad segments, JT has a plan which offers data allowances equally as generous for a given price point (in the low segment); or more generous for a given price point (in the medium/high segments) than either Sure or Airtel. However, it is noted that these plans would not include calls or SMSs to non-JT numbers.

4.5.45 Overall, there is a wide spread of pre-paid plans, and operators have significantly different terms/inclusions/exceptions for each.

4.5.46 Figure 7 below sets out plans which are only available for users willing to purchase via the relevant operator’s app. Airtel do not have any plans explicitly marketed in this way.

Figure 7: Current pre-paid price/positioning of Sure, JT and Airtel within Jersey, app only offers



Notes: Boxes show price, data allowance, minutes allowance, SMS allowance, and validity period in respective order. (*) asterisks denote JT plans where the allowance only applies for calls/SMSs to the same number.

Source: Analysis of Sure internal documents and websites of Sure, JT and Airtel 8th August 2022.

4.5.47 Within this portion of the market, it appears clear that Sure offers the most competitive product: their plans contain more generous allowances at the same or a lower price point; are not restricted to calls/SMSs on the users home network; and are valid for the same periods of time.

Other pricing and marketing considerations

4.5.48 In addition to the above analyses, which largely considered the hard factors of price and allowances, the JCRA should be aware that there are differences between the forms of marketing undertaken by the respective parties.

4.5.49 In particular, it is considered that JT has a particular emphasis on its bundle offerings within its marketing. It is able to do this given its extremely strong position in the fixed internet access market – where it holds a 64% revenue market share and owns the only island-wide fibre network.

4.5.50 For instance, a consumer seeking ‘maximum’ allowances, might opt for a 100GB/10,000m/10,000SMS mobile plan (£47.70 p/m with JT) and JT’s 1Gbps fibre broadband service (£81.70 p/m). Combining these as individual elements yields a price of £129.40 p/m. This would be uncompetitive with the comparable Sure offer of its ‘Unlimited Max’ mobile plan (£34 p/m) and 1Gbps unlimited fibre broadband offering (£83.34 p/m ordinarily, but currently an average of £62.50 over the contract life due to a ‘first 12 months half price’ offer); totalling £96.50-£117.34, depending on whether the Sure introductory offer is accounted for.

4.5.51 However, by purchasing JT’s ‘One Ultra’ bundle, a consumer can achieve a combined price of £97.50 p/m, which also incurs significantly more generous terms in respect of usage.⁶⁵ The equivalent Sure ‘Big Bundle’ can be found for £104 p/m.⁶⁶

4.5.52 Therefore whilst JT initially appears less competitive prior to considering its bundling offers, its competitive position within the mobile market is likely to be stronger once bundle offers are

⁶⁵ In particular, the cited individual plan for mobile includes no provision for roaming; and the broadband plan includes a 300GB usage cap between 8am and midnight. The JT One Ultra plan allows the customer to use their mobile data in the UK, Europe and USA; and also has no usage restrictions on broadband.

⁶⁶ As the ‘first 12 months half price’ offer applies to Sure’s broadband plans but not its bundle ones, it would currently be cheaper over the life of a contract for the consumer to purchase Sure’s mobile and broadband components individually.

accounted for. That of Airtel is likely to be weaker, given its limited bundle offering (see 'Retail Multiplay Services' further below).

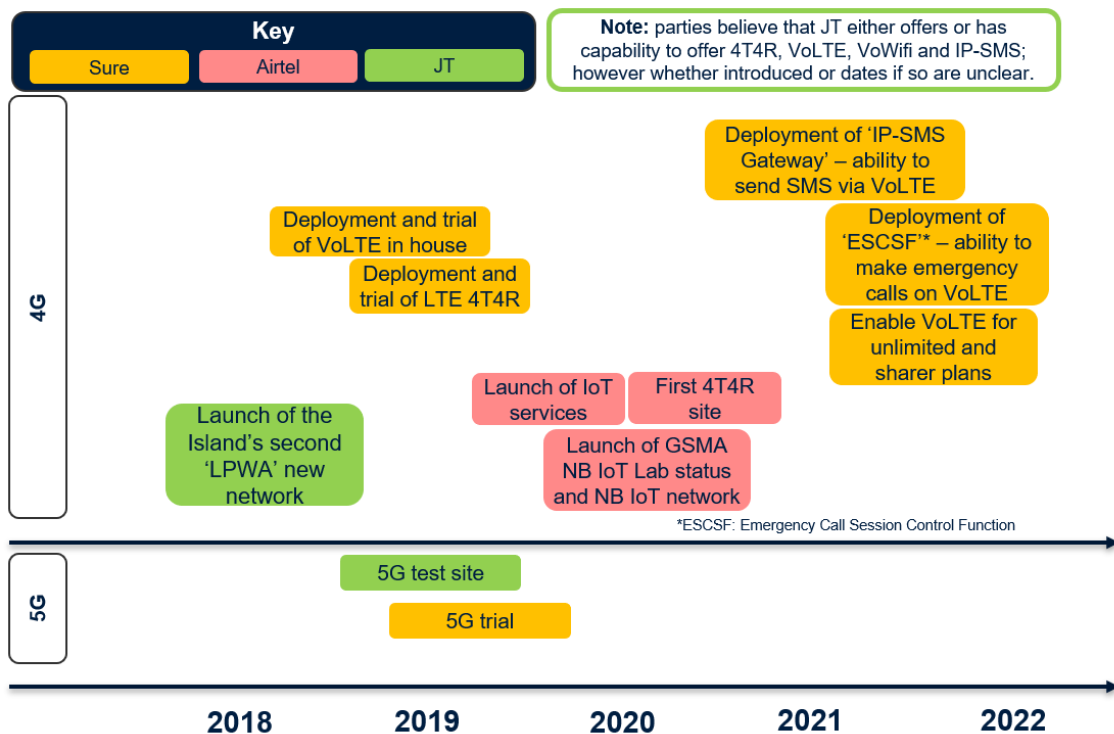
- 4.5.53 The preceding analysis focused on the pure airtime aspect of mobile plans is therefore likely to be conservative in many respects, given JT's ability to exert greater competitive pressure via its bundle offerings. JT also has the ability to leverage its high market share in fixed broadband, which is difficult for competitors, especially Airtel, to match.
- 4.5.54 The parties also submit that JT often markets its plans (particularly its bundles) in the form of (for instance) 'free £100 voucher with sign-up' type deals, which further increases its competitiveness within the market.⁶⁷

Innovation – introduction of new technologies

- 4.5.55 In addition to pricing, technical innovation is an important competitive dynamic between mobile operators. For example, launching new technologies or adopting technical standards which allow users to benefit from superior data speeds, audio quality or reliability.
- 4.5.56 Technical innovations in the period 2018 to 2022 are summarised in Figure 8 below. This is not a complete picture, as details of JT's technical advancements are limited to what has been found based on a search of public sources. [3<]

⁶⁷

E.g. <https://www.jtglobal.com/jersey/jt-one/>, <https://www.jtglobal.com/jersey/summer/>

Figure 8: Mobile network technical enhancements timeline for Jersey, 2018-2022

Source: Analysis of information provided by Sure and Airtel; desk based research of JT product enhancements.

- 4.5.57 With respect to pre-5G technology, the vast majority of innovation has been carried out by Sure, with network enhancements including VoLTE (Voice over Long Term Evolution – a technology which enhances the quality of voice calls). [§<]. Sure have also enabled IP-SMS, a platform which allows users to send SMSs via IP; whether using a data connection to the LTE network or – once enabled – VoWiFi. However, it should be noted that SMSs can also be delivered via LTE using the SGS interface. It is not known to what extent JT has introduced similar products (although it is believed to have the capacity to do so). It is known that JT trialled a LPWA (**Low Power Wide Area**) network in 2018, which is a technology aimed at facilitating 'Internet of Things' devices – for instance the collection of data from sensors in remote locations. [§<].
- 4.5.58 With respect to 5G, Sure has launched a 5G trial site in Jersey, during which 50 customers were given access to the service and followed up with surveys to gather feedback afterwards. It is believed that JT has also held some form of trial. [§<]
- 4.5.59 Further, following approval of the Transaction, Sure has committed to a roll-out of 5G §<. This will represent the single most significant technical step forward in the Jersey mobile market since at least the introduction of 4G in 2015.

Conclusion on Non-coordinated effects

- 4.5.60 The parties consider that JT is a closer competitor to both parties than they are to each other. [X]. For the reasons set out above, the exit of Airtel as an independent competitor will not therefore materially change the dynamics in the market, while a more robust combined entity will be a stronger challenger to JT. The increased competition that the combined entity will bring to JT will result in substantial concrete benefits for Jersey consumers, both in terms of delivering much-needed investment across the expanded Sure/Airtel footprint and resulting in new and higher quality services to consumers and business.
- 4.5.61 Nevertheless, recognising that the Transaction will reduce the number of providers of retail mobile services in Jersey from 4 to 3 (and the number of MNOs from 3 to 2) and in order to alleviate any potential concerns, Sure has identified a comprehensive package of proposed commitments (see the Introduction and Summary and Annex 1).

Coordinated effects

- 4.5.62 As set out above, the Transaction will reduce the number of providers of retail mobile services in Jersey from 4 to 3 (and the number of MNOs from 3 to 2). Nonetheless, there is no plausible risk that the Transaction will give rise to horizontal coordination in the retail market for the supply of mobile telecommunications services.
- 4.5.63 First, the highly complex nature of the market in terms of tariffs and offerings makes it implausible that, post-merger, suppliers would be able to establish a focal point for coordination. As set out in the pricing analysis in the preceding section, a large array of tariffs are available, which vary across a number of dimensions. These include the number of free minutes (including which networks these minutes can be used to call), free texts, data caps, data speed restrictions, rules around roaming, bundled discounts with other products such as broadband, and availability of sign-on vouchers. This creates substantial difficulties in terms of comparing product offers and price points between operators, which in turn reduces the risk of any coordinated outcome.
- 4.5.64 Second, substantial asymmetries between suppliers will remain post-merger. JT will retain a substantial lead over the merged entity in terms of market shares and total revenues. In addition, JT will continue to operate its own infrastructure across both its fixed and mobile networks, while the merged entity will do so only in the mobile space.
- 4.5.65 Third, there are various fringe players/potential entrants with the capacity to disrupt any potential coordination. For example, Clear Mobitel states on its website that it is planning to launch 5G services in the Channel Islands (<https://clearmobitel.com/channel-islands/>), albeit timings will depend on securing appropriate spectrum licences.

- 4.5.66 Fourth, the history of other, similar, two player island markets shows that two-party island markets can remain highly competitive, exhibiting low prices and high levels of innovation . For example since Sure's entry to the Isle of Man mobile retail market in 2008, Sure and Manx Telecom ("**MT**") have competed vigorously on price and innovation. By the end of 2021, Sure had grown its market share to 37% of the Isle of Man's estimated 95,400 mobile subscribers, with much of that growth (10 percentage points) having come since 2017.⁶⁸
- 4.5.67 Sure prices below MT and it has been innovative in terms of introducing Sharer plans and Big Bundle discounts in the Isle of Man. There are many examples of Sure and MT reacting quickly to each other's value and pricing moves, meaning consumers have greatly benefited in recent years from roaming inclusive and unlimited data plans, which were introduced earlier in the Isle of Man than in Jersey (for example, roaming inclusive plans started in 2018 in the Isle of Man compared to 2020 in Jersey). Sure also successfully competed for the Isle of Man Government mobile contract, winning it from MT.
- 4.5.68 The Isle of Man regulator, the Communications and Utilities Regulatory Authority (CURA)⁶⁹, has conducted two reviews of the Isle of Man mobile market: the first in 2011 and then most recently, in 2019⁷⁰. In both market reviews, the retail mobile market was found not to be susceptible to ex ante regulation⁷¹. In its assessment CURA followed the European Commission Guidelines on the assessment of significant market power (**EC SMP Guidelines**).⁷² The EC SMP Guidelines cover both single firm and joint SMP.⁷³ In common with regulators in practically every other jurisdiction, CURA has focused ex ante regulation of the mobile sector only on the mobile termination market.

Retail supply of fixed internet access services

- 4.5.69 As set out in Table 1 below, there are currently three providers of fixed internet access (often referred to as "broadband") services in Jersey: JT with a 60-70% share, Sure with a 20-30%

⁶⁸ Isle of Man Communications Market Statistic, Quarter 4 2021. Document Ref 30/22, Communications and Utilities Regulatory Authority. Available at: [30-22-market-statistics-report-q4-2021.pdf \(cura.im\)](https://www.cura.im/30-22-market-statistics-report-q4-2021.pdf).

⁶⁹ CURA was previously known as the Communications Commission.

⁷⁰ Market Review 2019, Response to Consultation and Decision Notice Isle of Man Mobile Communications Markets, Document Ref CD/01/2020, 10 March 2020. Available at: <https://www.cura.im/media/1115/response-to-consultation-and-decision-mobile-communications-markets-2019.pdf>.

⁷¹ In 2011, the then Communications Commission also separately identified wholesale markets for mobile access and call origination. MT was found to have Significant Market Power (SMP) in these markets but no remedies were imposed and in the 2019 mobile market review it was decided that these markets were no longer susceptible to ex ante regulation.

⁷² CURA Market Review 2019, paragraph 2.8.

⁷³ EC SMP Guidelines, section 3.2. Available at: <https://www.cura.im/media/1115/response-to-consultation-and-decision-mobile-communications-markets-2019.pdf>.

share, and Homenet on 0-10%. Both Sure and Homenet are dependent on access to JT's fibre network.⁷⁴

Table 1: Revenue Market Shares for the Retail Supply of Fixed Internet Access Services

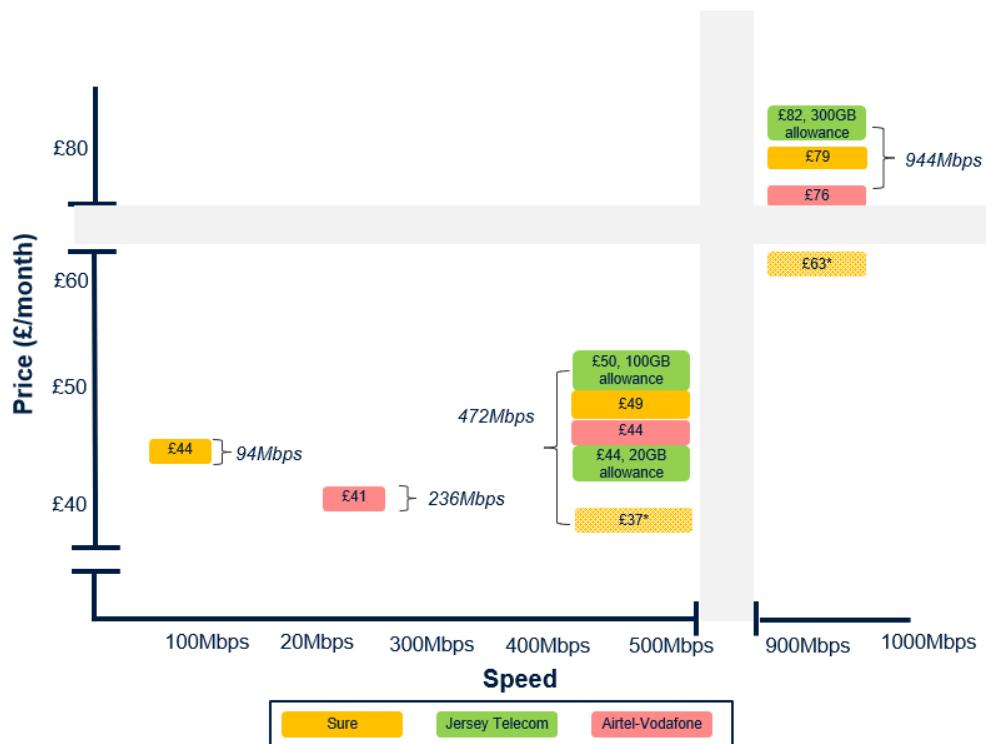
Market shares by revenue (%)			
	2019	2020	2021
Sure	20-30%	20-30%	20-30%
Airtel	N/a	N/a	0-10%
<i>Combined</i>	<i>20-30%</i>	<i>20-30%</i>	<i>20-30%</i>
Jersey Telecom	60-70%	60-70%	60-70%
Homenet	0-10%	0-10%	0-10%
Total	100%	100%	100%

Source: Analysis of Statistics Jersey Market Reports (2019-2021) and the parties' respective regulatory returns. See Annex 4.4.1 for further details. Calculations enclosed within data pack, see Annex 4.4.2.

4.5.70 Airtel has no material presence in the market for fixed broadband services and with a current market share of less than one half of one percent, the Transaction will have no material impact on the market for fixed internet access services.

4.5.71 The absence of a material impact on competition is confirmed by an analysis of the impact of Airtel's entry in late 2021 comparing present prices with those prior to Airtel's entry. The current positioning of each player in relation to their retail offerings of broadband via fibre technology is set out in Figure 9 below.

⁷⁴ JT owns the majority of the fibre connections (providing services up to 1Gbps). Other licensed operators gain access to JT's network through wholesale arrangements. Homenet also provides services through its WiMax and Fibre to the Home (FTTH) networks providing services up to 20Mbps and 100Mbps as well as an option for mobile broadband over 4G. See 2021 Report, *supra*, page 17.

Figure 9: Current pricing of fibre plans in Jersey (£): Sure, JT and Airtel

Notes: (*) Sure is currently running an offer where users pay half price for the first 12 months of a 24 month contract. These hatched boxes show the average cost over the contract life of such a plan. The solid yellow boxes show Sure's ordinary prices. Business plans excluded from analysis. JT plans are subject to a cap on usage between 8am and midnight, which is the GB figure shown within the boxes.

Source: Analysis of the websites of Sure, JT and Airtel, as at 14th August 2022.

4.5.72 JT's current prices as set out in Figure 9 above are fractionally higher than their level in March 2021.⁷⁵ Sure's list prices are also higher than they were in March 2021, when they were £45.75 for a 500Mbps package or £78 p/m for a 1Gbps package; although there is currently an aggressive acquisition offer in place for new customers.⁷⁶ Sure also added a more affordable 94Mbps plan in 2021.

4.5.73 This indicates that Airtel's entry has had no material impact on the competitive landscape, with Sure having implemented a price rise due to inflation, and JT appearing to have done the

⁷⁵ Taken from the Wayback Machine. As at March 2021, JT's fibre products were priced at £44, £49 and £81 (source). These are now priced at £44.40, £49.50 and £81.70 per month.

⁷⁶ <https://web.archive.org/web/20210422115603/https://www.sure.com/jersey/broadband-and-home/broadband/unlimited-broadband/>.

same.⁷⁷ If Airtel's entry had had a significant impact in strengthening competition, it would be expected that JT and Sure would have lowered prices in response.[§<]⁷⁸

Retail supply of fixed telephony services

4.5.74 Airtel entered this market in July 2022. Given this, any overlap or competitive impact of Airtel in this hypothetical market is expected to be *de minimis*, and the Transaction will have no impact upon competition in this area.

4.5.75 Revenue market shares are set out in Table 2 below for completeness.

Table 2: Market Shares for the Retail Supply of Fixed Telephony Services

Market shares by revenue (%)			
	2019	2020	2021
Sure	10-20%	10-20%	10-20%
Airtel	N/A	N/A	N/A
<i>Combined</i>	<i>10-20%</i>	<i>10-20%</i>	<i>10-20%</i>
Jersey Telecom	80-90%	80-90%	80-90%
Total	100%	100%	100%

Source: Analysis of Statistics Jersey Market Reports (2019-2021) and the parties' respective regulatory returns. See Annex 4.4.1 for further details. Calculations enclosed within data pack, see Annex 4.4.2.

Retail supply of multiple play services

4.5.76 To the extent that a separate multi-play market exists, as set out in Table 3 below, the competitive position is similar to that in relation to fixed internet access services. As in relation to fixed internet access, Airtel has no material presence having been completely absent from the market until 2021. Revenues with respect to multi-play markets are unknown as the regulator does not report these revenues for the market as a whole, and the parties do not readily report them separately. Therefore the figures below are based on volumes. Bundle numbers for JT are also unknown, and it has therefore been assumed that the same proportion

⁷⁷ [§<]

⁷⁸ [§<]

of their mobile customers take multi-play bundles as do Sure customers. Further information can be found in Annex 4.4.1.

Table 3: Market Shares for the Retail Supply of Multi-play Services

Market shares by number of contracts (%)			
	2019	2020	2021
Sure	30-40%	30-40%	30-40%
Airtel	N/A	N/A	0-10%
<i>Combined</i>	<i>30-40%</i>	<i>30-40%</i>	<i>30-50%</i>
Jersey Telecom	60-70%	60-70%	50-70%
Total	100%	100%	100%

Source: Analysis of Statistics Jersey Market Reports (2019-2021) and the parties' respective regulatory returns. See Annex 4.4.1 for further details. Calculations enclosed within data pack, see Annex 4.4.2.

4.5.77 Airtel only began to compete in this area in Q4 2021. Having launched broadband services in November 2021 (and only very recently added a landline phone offer). Airtel's bundling offer is much less sophisticated than that of Sure/JT, simply comprising a 5% discount on broadband plans when taken with mobile at the same time. Further, as of the end of 2021 it only had [redacted] broadband customers, and so uptake of a 'bundle' offer can be assumed to be a fraction of this.

4.5.78 Given this, any overlap or competitive impact of Airtel in this hypothetical market is considered *de minimis*, and the Transaction will have no impact upon competition in this area.

Wholesale supply of call termination services on mobile networks

4.5.79 As set out above (see 4.2.10), there is no substitution between networks in relation to call termination. There is therefore no competition between the parties, pre-merger, with each party having a 100% market share in relation to services on its own network. The Transaction will therefore have no impact on the competitive situation on this market.

Wholesale supply of inbound international roaming services

4.5.80 International roaming functions are made via agreements between domestic and overseas MNOs for customers of the former to be able to utilise the networks of the latter when travelling. In practice, these agreements are typically bilateral, with a pair of MNOs coming to an agreement for the utilisation of each other's networks. These agreements may be in the form

of each giving a certain amount of ‘allowance’ to the other (beyond which charges based on usage levels would apply), or agreeing rates to be used up front. Charges would then be netted out and settled at certain time intervals (for instance monthly, quarterly or annually).

4.5.81 Jersey is not, and never has been, subject to EU Regulations concerning the capping of roaming charges, and therefore Jersey MNOs are theoretically unrestricted in terms of what they can charge overseas MNOs in order for the customers of the overseas MNOs to access networks in Jersey.

4.5.82 Sure, Airtel and JT are all understood to provide roaming to various international partners in Jersey. Estimated market shares are presented below. JT’s international roaming revenues are unknown, and so have been estimated on the basis that they comprise the same share of JT’s overall mobile revenues in Jersey (the island where they are the overall market leader) as they do for Sure in Guernsey (where Sure is the overall market leader).

Table 4: Estimated market shares for the wholesale supply of inbound international roaming

	Market shares by revenue (%)		
	2019	2020	2021
Sure	20-30%	20-30%	30-40%
Airtel-Vodafone	10-20%	10-20%	10-20%
<i>Combined</i>	<i>30-50%</i>	<i>30-50%</i>	<i>40-60%</i>
Jersey Telecom	50-70%	50-70%	40-60%
Total	100%	100%	100%

Source: Analysis of Statistics Jersey Market Reports (2019-2021); the parties’ respective regulatory returns; and Sure internal bundling data. See Annex 4.4.1 for further details. Calculations enclosed within data pack, see Annex 4.4.2.

4.5.83 Whilst the parties have a combined market share of [X] in 2021, there is no realistic prospect of a material impact upon competition as a result of the bilateral nature of negotiations between MNOs seeking to reach a roaming agreement:

- The vast majority of visits to Jersey are from either the UK (494k or 61% of the total 771k visits to Jersey in 2019) or France (136k; 18%)⁷⁹ and the majority of international roaming revenues in Jersey can therefore be assumed to be from these sources.
- Given the relative size of the consumer bases of networks in the UK, France and Jersey, it can reasonably be expected that the revenues which UK and French MNOs provide to Jersey operators via roaming fees are a far greater proportion of Jersey operators' revenues than vice-versa. As a result, it is expected that the bargaining power of overseas operators will be far greater than that of Jersey operators with respect to negotiating roaming fees.

4.5.84 Given the above, there is no realistic prospect of a material impact upon competition in respect of the wholesale supply of international roaming services.

Vertical Effects

4.5.85 Please note the Parties do not consider there to be any vertical concerns raised by the transaction in the context of the link between the wholesale market for leased lines, and the retail market for mobile services. See further Sure's response to Request 5 of the 3 Oct RFI at Annex 5.1.

4.6 Provide the contact details for each of the parties' top five competitors (whether located in Jersey or abroad) in the market(s) identified in 4.2.

4.6.1 See Annexes 4.6.1 and 4.6.2 to this notice.

4.7 Provide the contact details for each of the parties' top five suppliers (whether located in Jersey or abroad) in the market(s) identified in 4.2.

4.7.1 See Annexes 4.7.1 and 4.7.2 to this notice.

4.8 Provide the contact details for each of the parties' top five customers (whether located in Jersey or abroad) in the market(s) identified in 4.2.

4.8.1 See Annexes 4.8.1 and 4.8.2 to this notice.

4.9 Provide the contact details for any trade association or other industry organisation in Jersey concerned with the market(s) identified in 4.2.

4.9.1 Not applicable.

⁷⁹ Figures taken from the [Statistics Jersey Exit Survey Analysis for 2019](#). 2019 year has been used as it is the last full year prior to the exceptional impact of COVID-19.

4.10 Provide details of any joint ownership, agreements or joint ventures among the competitors identified in 4.4.

4.10.1 Not applicable.

4.11 Discuss the extent to which imports provide actual or potential competition in the market(s) identified in 4.2. (Cover factors such as transport costs, tariffs, quotas, standards, government regulations etc).

4.11.1 Not applicable.

4.12 Describe the barriers to entry or expansion that exist for the market(s) identified in 4.2, including, but not limited to, the capital expenditure required, permits or approvals required, planning restraints, health and safety restraints, availability of raw materials, R&D requirements, the necessary intellectual property or expertise, advertising/promotional requirements, and where possible, an estimate of the time required and resources needed to overcome these factors, including an estimate of the extent to which costs are recoverable.

4.12.1 The main barriers to entry are access to regulatory licences and, for mobile operators, access to spectrum.

4.13 Identify separately any competitors that have entered, significantly expanded in, or exited the market(s) identified in 4.2 in the past three years.

4.13.1 None.

4.14 Identify any firms, currently not in the market(s) identified in 4.2, that could reasonably enter such markets.

4.14.1 Clear Mobitel have announced plans to build a 5G network in Jersey. In addition, Starlink has recently been granted a licence in Guernsey for its satellite fixed broadband service and can reasonably be expected to be able to readily expand into Jersey.

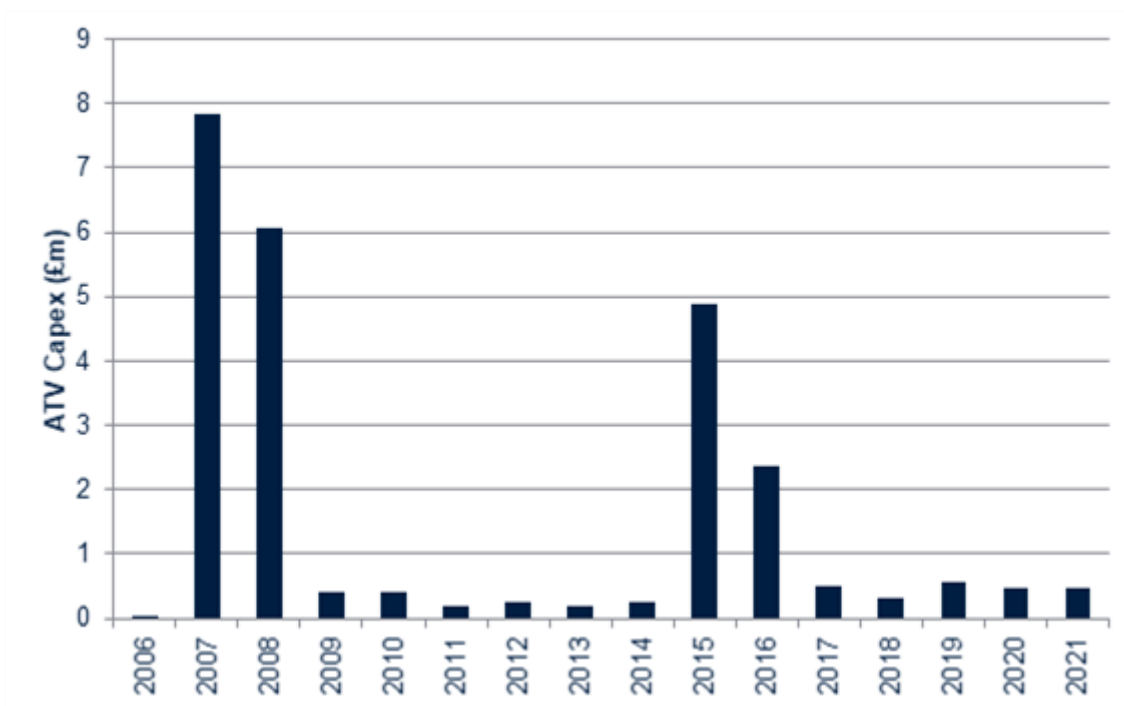
4.15 Provide an assessment of any effects the merger may have within any part of Jersey (identifying any particular parishes/local areas affected), if different than those already described.

4.15.1 The net effects and benefits of the merger are described more fully above and are expected to be felt across Jersey. More densely populated areas of the island such as St Helier may experience the greatest benefits of network enhancements that reduce capacity constraints and network congestion. An additional benefit may be an overall reduction in the number of

mobile masts on the island of Jersey as a result of the Transaction, without impacting on the quality or extent of coverage (see 4.16).

4.16 Describe any efficiencies and/or customer benefits that the parties expect the merger to bring and provide copies of any documents describing or quantifying efficiencies, cost savings or other benefits, and indicate (if not otherwise contained in the document itself) the date of preparation.

4.16.1 As noted in para 8 above, the counterfactual against which the Transaction should be assessed is one where Airtel has failed to recover its existing investments and [redacted].⁸⁰ Airtel follows a cycle of intense capital investment followed by a period of minimal maintenance spend while the return on that investment is realised. Figure 10 shows a substantial initial outlay by Airtel of around £14m across Guernsey and Jersey in 2007/08—when it first entered the island—followed by a six-year period of more limited investment (£200k–£400k per year in total) until the upgrade cycle to 4G in 2015/16 (requiring a further investment of around £7m across the two jurisdictions).

Figure 10: Airtel Capex (combined Channel Islands) 2006-2021

4.16.2 As Airtel is now approaching the end of this cycle and as noted at para 8 above, it is estimated that Airtel would need to undertake a significant round of re-investment, estimated by Sure to be in the region of [redacted] and [redacted].⁸¹

4.16.3 In addition, the Transaction will give rise to a number of efficiencies and customer benefits as a direct result of the two parties being combined into a single entity, and through the commitments Sure has proposed (see further Introduction and Summary). Copies of any relevant documents are contained in Annex 2.6.

Greater customer access to fixed-mobile bundles and discounts

4.16.4 [redacted].⁸²

Consumer benefits from faster 5G roll-out

4.16.5 As noted in the Introduction and Summary, Sure is prepared to commit to implement a state-of-the-art 5G mobile network [redacted]. Before the Transaction was contemplated, [redacted]. A direct result

⁸¹ [redacted]

⁸² Project Evolve, Introductory Presentation, 13 May 2022, slide 3 at Annex 2.6.4.

⁸³ £13.25 saving is defined by comparing the price of standalone Sure Broadband, Sure Fixed Line Rental and Sure Mobile Postpaid versus the Sure Big Bundle price. Currently the Big Bundle represents a saving of £11.47 per month saving versus JT One Lite. For further details, see: <https://www.sure.com/jersey/bundles/>.

of the Transaction will therefore be the delivery of 5G to Jersey much faster (3x) than would have been the case. In addition, existing Airtel customers will gain access to 5G 3x.

- 4.16.6 This enhancement is to be facilitated by an investment approved by Sure's parent company of [3x].
- 4.16.7 Compared to existing technologies, 5G is expected to bring higher data throughput speeds, greater capacity, and a connection more appropriate for a wide range of devices (beyond mobile phones).⁸⁴
- 4.16.8 As part of its economic impact assessment of the Telecoms Security Act 2021 when this legislation was in draft form, the UK government analysed the potential benefits of 5G, given it considered the security requirements of that legislation as having an 'unlocking' effect on 5G.⁸⁵
- 4.16.9 The parties consider that significant benefits would accrue to Jersey broadly in proportion to the relative population of Jersey compared with that of the UK. As noted above, the Transaction could facilitate the rollout of 5G up to [3x] months in advance of when this might otherwise be achieved; however benefit analysis has been prepared on the conservative basis of a 12-month acceleration.
- 4.16.10 Adjusting the UK government's methodology to the population and GDP of Jersey, we find that a 12-month acceleration in the roll-out of 5G yields an estimated total benefit of £4.1m. The analysis for these figures is enclosed within the data pack provided at Annex 4.4.2.

Benefits from improved quality and resilience of existing mobile services

- Network speed and quality

- 4.16.11 Sure's network is regarded as being of higher quality than that of Airtel, according to standardised industry benchmarks. Table 5 reports the results of a 2017 'drive test' conducted by CICRA,⁸⁶ with respect to 4G coverage.

⁸⁴ <https://www.ericsson.com/en/5g/5g-vs-4g>, accessed 6 July 2022.

⁸⁵ HM Government (2021), 'Draft Electronic Communications (Security Measures) Regulations Impact Assessment'. Page 6. Available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1057521/Consultation_stage_impact_assessment_web_accessible_.pdf.

⁸⁶ Channel Islands Competition and Regulation Authority – now superseded by separate authorities for both islands.

Table 5 Key results from 2017 CICRA drive test results

	Sure	Airtel	Jersey Telecom	Sure vs. Airtel
Average 4G download throughput	45.5Mbps	17.7Mbps	21.8Mbps	>2x faster
Average 4G upload throughput	11.7Mbps	9.0Mbps	16.1Mbps	30% faster
Measurements with insufficient 4G indoor coverage	7.7%	13.2%	11.2%	Better
Measurements with 4G download throughput < 2 Mbps	4.7%	14.3%	4.2%	Better
Measurements with 4G upload throughput < 768kbps	7.8%	7.1%	6.3%	Worse

Note: references to 4G mean tests conducted on the Parties' 4G LTE networks.

Source: CICRA (2017), 'LTE Drive-test results', Sections 3.3-3.6.

4.16.12 It can be seen that on all but one metric (proportion of measurements with an upload speed < 768kbps), Sure's network outperformed Airtel's. In particular, on the key metric of average LTE download throughput, Sure's 4G network was found to be more than twice as fast as Airtel's.

4.16.13 Considering other elements of network quality factors, such as network congestion, comparison of the network KPIs of the merging parties shows that Sure has a substantially lower Physical Resource Block (PRB) rate of 10-20% compared with Airtel's 40-50%.⁸⁷ That is to say, on average across all the Airtel 4G cells, 40-50% of the available PRBs are used, compared with 10-20% in Sure's network.⁸⁸ [redacted].⁸⁹ [redacted].

4.16.14 Following the Transaction, Sure ultimately anticipates extending the combined network to around [redacted] sites (compared to the 58 and 61 sites currently operated by each of Sure and Airtel respectively), providing a 30-40% increase in site density network with increased capacity and coverage for all users whilst reducing the combined number of sites by approximately 30-40%

⁸⁷ Physical Resource Block impact user experience and throughput per use per cell. The usage ratio is considered to manage Quality of Service of LTE traffic. As the PRB usage ratio increases, the resource may not be allocated in a timely and reliable manner to the users of the cell.

⁸⁸ PRB usage rates from Sure and Airtel internal technical data.

⁸⁹ A site is considered technically congested if it has reached 70% of its total available capacity. Beyond this, there is the risk of insufficient 'head-room' to cater for any new requests, devices switching cell sites, etc.

This will help to alleviate congestion in certain high-population/high-demand areas (e.g. St. Helier).

4.16.15 This reduced number of sites can be expected to result in environmental benefits, such as reduced power consumption and associated carbon emissions. The reduced number of sites will also reduce the visual impact of the network compared with operating two separate networks.

4.16.16 Table 6 below presents an analysis of the density of mobile network sites in Jersey at the present day, and under Sure's plans for a harmonised network. It can be seen that the plans result in a reduced overall number of sites on the island (by [X]); but as all customers are able to access them, there will be a greater effective density to both customers of Sure and Airtel (an increase of at least [X]). Given that the network will be specified with adequate capacity to serve the combined customer base of Sure and Airtel, this is likely to result in individual consumers enjoying a better chance of establishing a strong connection to a base station.

Table 6 Network site density comparison

	Sites	Landmass of Jersey ¹	Density: sites / sq mi
Sure (current)	58	44	1.32
Airtel (current)	61	44	1.39
Anticipated future network	[X]	44	[X]

Notes: 1 [Encyclopedia Britannica](#)

Source: Analysis of Sure business plans

4.16.17 See further the Parties' responses to Requests 7 and 8 of the 3 Oct RFI (at Annexes 5.1 and 5.2) for additional internal analysis of the quality and coverage of both networks. See also annexes 5.2-A5, 5.2-A6 and 5.1-S4 provided in support of those responses.

- Network resilience

4.16.18 As part of its commitment to network quality, Sure has continually invested in building a resilient network with multiple points of redundancy across all key network components. For instance, Sure has [X]⁹⁰

⁹⁰ Based on discussions with Sure technical team, 28 July 2022.

4.16.19 [REDACTED]

4.16.20 The Transaction would therefore allow Airtel customers to benefit from Sure's higher network resilience.

Security benefits

Benefits from accelerated compliance with telecoms security requirements

4.16.21 The UK government has recently passed the Telecoms Security Act 2021 ("**UK TSA 2021**"). This Act requires the removal of all HRV equipment from 5G networks by 2027. It is expected that similar requirements will be transposed by the governments of the Channel Island jurisdictions as part of the TSRs. In Jersey the full compliance deadline is likely to be later than the end of 2026.⁹¹

4.16.22 As well as mandating the removal of all HRV equipment, the UK TSA 2021 requires a range of elevated standards of security to be implemented by telecoms businesses. These are intended to reduce the risk of security breaches occurring, as well as potentially mitigating the effect of any breaches via earlier discovery.⁹²

4.16.23 As a result of the merger, Sure expects to:

- [REDACTED]
- [REDACTED].⁹³

4.16.24 The UK government has estimated that potential costs to the UK as a whole from security breaches over a 10-year period will be in the range of £2,800m to £6,850m, with a central case estimate of £4,480m.⁹⁴ Applying these figures to Jersey on the basis of pro-rating the potential

⁹¹ This is acknowledged by Cyrille Joffre, Sure's Chief Operating Officer, in *Guernsey Press* (2021), 'Telcos continue removal of high risk vendors' equipment', 9 July. Available online at <https://guernseypress.com/news/2021/07/09/telcos-continue-removal-of-high-risk-vendors-equipment/>.

⁹² HM Government (2021), 'Draft Electronic Communications (Security Measures) Regulations Impact Assessment', page 6. Available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1057521/Consultation_stage_impact_assessment_web_accessible_.pdf

⁹³ Compliance with TSA-style legislation is likely to require significant time from compliance staff, which a larger combined organisation will be in a stronger position to facilitate. Further, some of the investment required to achieve TSA compliance will benefit from economies of scale over a larger network, for instance the requirement to introduce equipment facilitating a 'Security Gateway to Transport', for which the necessary equipment is expected to cost approximately £1m per network.

⁹⁴ HM Government (2021), 'Draft Electronic Communications (Security Measures) Regulations Impact Assessment', page 5. Available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1057521/Consultation_stage_impact_assessment_web_accessible_.pdf

costs in line with GDP implies a potential negative impact from security breaches in Jersey of c. £9.9m over a 10-year window.⁹⁵

4.16.25 Although the UK government did not estimate the proportion of these costs which could be averted as a result of the UK TSA 2021 regulations being implemented, it is reasonable to assume that a material proportion of these would be avoided via higher security standards.

Security benefits related to global title leasing

Global title leasing

4.16.26 A particular area of focus with regards to telecoms security is that of Global Title Leasing (“GTL”).

4.16.27 Many non-telecoms business have legitimate ‘bulk’ needs for usage of telecoms services. For instance, businesses may send one-time access passwords via SMS, or MVNOs may use it to authenticate their own users and permit them access to roaming when overseas. For such use cases, it is common for such businesses to gain access to send such messages via agreements with MNOs, such as Sure or Airtel in the Channel Islands.

4.16.28 In order to grant access to such systems, MNOs lease a ‘global title’ to such businesses. This will provide the business with access to Signalling System 7 (“SS7”). This is a global signalling protocol which facilitates the functioning of mobile networks across the world; however this system has now been in use for several decades and was not designed with security in mind.

4.16.29 This can give businesses in possession of a global title lease the ability to (for instance) geolocate users. In the case of malicious actors who may gain access to a leased global title, this can present concerns over privacy and security.

4.16.30 While there are various legitimate uses for the SS7 protocol (see paragraphs above), there have also been reports of security breaches by bad actors exploiting vulnerabilities in this aging technology via inappropriate use of GTLs.^{96 97}

⁹⁵ According to the [States of Jersey](#), GDP was £4,972m in 2019. UK GDP was £2,255,283m according to the [Office for National Statistics](#). This gives a result of Jersey’s GDP being 0.14% of UK GDP. 2019 figures used in order to remove the impact of COVID-19.

⁹⁶ Black, C., Kirchgaessner, S. and Sabbagh, D., ‘Israeli spy firm suspected of accessing global telecoms via Channel Islands’, *The Guardian*, 16 December 2020. Available online at: <https://www.theguardian.com/world/2020/dec/16/israeli-spy-firm-suspected-accessing-global-telecoms-channel-islands>.

⁹⁷ MacDiarmid, C. and Rothwell, J., ‘How mobile networks were used to locate fleeing Princess Latifa’, *The Telegraph*, 20 February 2021.

4.16.31 Sure has taken substantial voluntary measures to bolster the security of these protocols, including:⁹⁸

- [REDACTED];
- [REDACTED]
- [REDACTED]

4.16.32 [REDACTED].⁹⁹

4.16.33 Following the Transaction, it is anticipated that Sure will implement its current standards across the combined business, while working with the States of Jersey and the UK National Cyber Security Centre in order to further increase these protections.¹⁰⁰ This will result in demonstrable positive action to reduce the risk of an issue which has resulted in negative coverage of the Channel Islands.

4.16.34 Please see further Sure's response to Request 6 of the 3 Oct RFI (Annex 5.1) for additional analysis on how the Parties consider that the merger will give rise to substantial efficiencies and consumer benefits.

4.17 Identify any product(s) (including raw material(s) or service(s)) for which the combined purchases of the parties will account for more than 10% of the total sales in Jersey of that product or service.

4.17.1 Not applicable.

4.18 Are there any markets in which one or more of the undertakings concerned is engaged in business activities which are upstream or downstream of a product market in which any of the other parties or undertakings are engaged, regardless of whether there is an existing customer/supplier relationship?

4.18.1 Not applicable. For completeness, Airtel purchases a couple of leased lines and ISP BW from Sure for its own internal use.

⁹⁸ Sure (2022), 'Global Titles: Proposed Controls Framework', internal document at Annex 4.16.1.

⁹⁹ [REDACTED]

¹⁰⁰ Sure (2022), 'Global Tittles: Proposed Controls Framework', internal document, esp. slides 2 and 3.

4.19 *Provide a brief assessment of any other features that should be taken into account in considering the effect of the merger.*

4.19.1 See further the responses above and the Introduction and Summary.

4.20 *Identify any trade websites or other sources of information, not previously identified, which to your knowledge may contain information relevant to the assessment of the merger.*

4.20.1 Not applicable.

5. Calculation of fees

5.1 *For mergers that are notifiable in Jersey, provide details of how you calculated the merger's fair market value for the purposes of determining the appropriate filing fee.*

5.1.1 ~~§~~¹⁰¹.

¹⁰¹ Highly confidential.

6. Declaration

6.1.1 I declare that:

- (i) The information given herein and in any appendices and attachments hereto is, to the best of my knowledge and belief, accurate and complete, and any opinions expressed herein are sincere.
- (ii) All estimates are identified as such and are the best estimates of the underlying facts.
- (iii) Photocopies of any documents submitted with this Merger Application Form are exact duplicates of the original documents.
- (iv) I have read and am aware of the provisions of Articles 20, 21, 22 and 25 of the Competition (Jersey) Law 2005.
- (v) I have the authority to sign this declaration on behalf of all parties to the proposed merger or acquisition.
- (vi) The initial fee required for conducting a first detailed review of the merger has been paid or is submitted with this Merger Application Form.

First

Signed:

Name: ✕

(Block Letters)

Company: Sure (Guernsey) Limited

Position: ✕

(Block Letters)

Date: 3/11/2022

For and on behalf of: Sure (Guernsey)
Limited

6. Declaration

6.1.1 I declare that:

- (i) The information given herein and in any appendices and attachments hereto is, to the best of my knowledge and belief, accurate and complete, and any opinions expressed herein are sincere.
- (ii) All estimates are identified as such and are the best estimates of the underlying facts.
- (iii) Photocopies of any documents submitted with this Merger Application Form are exact duplicates of the original documents.
- (iv) I have read and am aware of the provisions of Articles 20, 21, 22 and 25 of the Competition (Jersey) Law 2005.
- (v) I have the authority to sign this declaration on behalf of all parties to the proposed merger or acquisition.
- (vi) The initial fee required for conducting a first detailed review of the merger has been paid or is submitted with this Merger Application Form.

Second (if necessary)

Signed:

Name: ✕

(Block Letters)

Company: Bharti Global Limited

Position: ✕

(Block Letters)

Date:

For and on behalf of: Bharti Global Limited