

**Response to Consultation on Modification of Licence and Decision: Code Powers
Sure (Isle of Man)**

Date 8th August 2016

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1. Code Powers

Schedule 1 of the Telecommunications Act 1984 ("the Act"), known as the Telecommunications Code, gives to certain network operators the rights to install and maintain their apparatus on public and private land.

Only those operators that have the Code applied to them are able to benefit from, and be subject to, the Code.

Manx Telecom is currently the only operator with Code powers to install and maintain telecommunications apparatus and has conditions placed on them in their licence in respect of the Code. The Manx Utilities Authority has Code powers in respect of water and electricity under the Gas and Electricity Act 1996 as does the Department Of Infrastructure in order to dig up the roads.

2. Process

Sure has applied for Code powers in order to facilitate the building of its own network on the Island to service business customers in identified areas in the Island. The non-confidential version of Sure's letter of application and the Public Notice are available on the Commission's website at [Closed Consultations](#)¹.

Applications for Code powers come under s.8 of the Telecommunications Act 1984 (the Act). Code powers would be applied via a modification to Sure's Licence. The Commission followed the process in s.10 of the Act.

This requires that a notice is published laying out the reasons for the modification and the effect of the modification and giving 28 days for any representations or objections. A notice was published on 13th May, and, as required under s.10(5) of the Act, a copy sent to the Chief Secretary. The Council of Ministers did not exercise its discretion to direct the Commission not to make any modification to the Licence.

Any application of the Code does not have effect until it has been approved by Tynwald.

In considering whether to apply the Code in any person's case, the Commission must have regard under s.8 of the Telecommunications Act 1984 ("the Act"), in particular, to each of the following matters:

- (i) that the running of the system will benefit the public; and
- (ii) that it is not practicable for the system to be run without the application of that code to that person

The Commission may impose conditions as to the Code, in particular to ensure:

- (a) that the physical environment is protected and in particular, that the natural beauty and amenity of the countryside is conserved;

¹ <https://www.gov.im/cc/ConsultationDetail.gov?id=577>

(b) that there is no greater damage to streets or interference with traffic than is reasonably necessary;

(c) that funds are available for meeting any liabilities which may arise from the exercise of rights conferred by or in accordance with the code.

The Commission stated in its notice of 13th May 2016 that it was the preliminary view of the Commission that granting Code powers to Sure would be in the public interest and that it is not practicable to build and run the network without the application of Code powers.

Comments were invited on the proposed modification to Sure's Licence.

3. Consultation Responses

There were 16 responses to the Public Notice. Four respondents asked that their response be kept confidential. Of those, three were supportive of Sure being granted Code powers and a fourth expressed concerns about Sure's parent company.

The non-confidential responses are attached at Annex A. The main themes were:

3.1 Potential impact on future capital investment and pricing on Island, concerns about 'cherry picking' and the Universal Service Obligation.

There were concerns expressed by Manx Telecom (MT) and Mr T Quayle about the potential for the granting of Code powers to impact on the future capital investment by Manx Telecom and Manx Telecom queried whether this would be in the public interest.

There is a recognition from respondents that granting Code powers to Sure could impact on MT's investment in infrastructure. The Chamber of Commerce took the view that "A likely effect is that the net effect would be an equal or increased IOM investment spread across the parties, and resultant competitive situation to drive down product pricing."

The Chamber also put forward the proposition that MT pricing structure is likely to change as a result of the proposed use of Code Powers and may remove the requirement for Sure to install their own infrastructure.

The Commission have been working with MT since the Market Review in 2012 in order to implement those reviews and to introduce a system of pricing based on a cost orientated approach in order to inform prices in the wholesale market, including the pricing of leased lines.

Manx Telecom have stated that the approach whereby Sure would invest in a network in areas of greatest commercial interest is firstly a cherry picking approach "whereby the Commission should be mindful of the public interest test" and secondly is "likely to increase the pressure for differential pricing, increasing the prices of remote towns relative to those privileged areas of high business density."

Manx Telecom also stated that businesses are likely to be pulled to specific locations where this competition is available rather than encouraging economic development elsewhere on the Island.

Mr Quayle stated "the Commission is giving the Competition to the incumbent and unfair advantage within what is relatively a small marketplace for any telecommunications operators to carry out business."

The Commission recognises the considerable investment that Manx Telecom has undertaken on the Island and also their stated commitment to continued investment on Island. It is a major employer and a key part of the economy on the Island.

Commission Response

The Commission is of the view that awarding Code powers is in the public interest.

The Commission does not intend to make roll out obligations a condition of the award of Code powers. Code powers are part of a raft of measures available to an operator to make commercial decisions in how to operate and run its business.

The Commission recognises that digging the highway is expensive and a major investment for a telecommunication company and that any company will only do so where all other commercial approaches have been exhausted. On balance the public interest is more likely to be achieved with the granting of Code powers to assist in that process where necessary.

3.2 Perception that an increase in competition will bring benefits to Island

A number of organisations wrote in support of the proposals and welcomed the benefits that they felt would be gained from having a choice of networks. Diversity and resilience, particularly with data centres and cloud based solutions was cited. Respondents expressed views that product choice, increased competition and a further telecoms company showing commitment to the Island by investing in fixed infrastructure would add to the Island's credibility as a place to do business.

Commission Response

The Commission is of the opinion that the granting of Code powers will be in the public interest.

3.3 Delay the findings until Analysys Mason reports

The Department of Economic Development has commissioned a study by a specialist IT consultancy firm, Analysys Mason, to help Government to consider what further measures should be taken in respect of IT infrastructure on the Island. The study will examine, in particular, what infrastructure is needed to facilitate growth.

This report, which should be presented to DED in September, will consider matters such as infrastructure sharing, fibre to the premises and how the IOM can remain competitive.

Manx Telecom has suggested that awarding Code powers may be premature before this report is presented.

Commission Response

The Commission while welcoming the Analysys Mason report does not envisage that additional information will be gained from this exercise in the particular matter of whether Sure should have the powers to assist in the roll out of their own network.

3.4 Would Sure be obliged to share its infrastructure?

The question was raised as to whether Sure would be obliged to share its infrastructure, and, while it would not be obliged to in the absence of a market review and Significant Market Power (SMP) designation, it may decide to do so.

3.5 Responses re potential disruption to the Highways and how fibre may be deployed.

A number of respondents, in particular the MUA, with considerable experience of highways work, MT and DOI gave some very useful feedback on the implications of having the power to break up the highway.

MT asked whether or not 'it is the intention of the Communications Commission to determine acceptable means of deploying fibre'.

Sure has met with DOI and outlined its plans in order to minimise disruption and will be obliged to be part of the Strategic Infrastructure Group and the Joint Utilities Group both under the stewardship of DOI. Sure will have the same obligations as other Code Operators and Statutory Undertakers and have stated that they will adhere to the rules set by the DOI.

Micro trenching, as detailed in Sure's application would only be used on the footpaths where appropriate and in discussion with the Highways Authority. Sure is in agreement with the boundaries set by DOI in its consultation response.

Under s. 8 of the Telecoms Act 1984 the Commission may choose to place restrictions on Sure's licence in respect of the Code and Sure has given undertakings about these matters.

Sure stated: " We are happy to accept reasonable licence conditions in relation to a) and b) below, in line with similar licence conditions as apply to any other relevant operators with Code powers".

" [Sure] note MT's licence Code Power conditions and these types of restrictions would all be in line with expectation and the types of conditions we already work with and to in other jurisdictions. "

(a) that the physical environment is protected and in particular, that the natural beauty and amenity of the countryside is conserved;

"Sure will adhere to local laws, legislations and guide lines and will return surfaces disturbed to at least the condition before Sure installed network elements. Sure also understands that DOI may at times require that the highway is returned to a condition in line with DOI's specification which may differ from that before a dig".

(b) that there is no greater damage to streets or interference with traffic than is reasonably necessary;

"Sure has engaged with utilities, councils and asset owners to explore less intrusive methods of deploying fibre. This is at the heart of our aim to build a network which causes minimal disruption to road users, residents and the general public."

(c) that funds are available for meeting any liabilities which may arise from the exercise of rights conferred by or in accordance with the code

Sure has made available its certificate of liability insurance.

Commission Response

The Commission have engaged with Sure and DOI and have requested that DOI consider placing the obligations it wishes to put on Sure and others who have the right to break up the Highway in its own legislation. In the meantime, DOI could enforce these requirements by a side agreement. This would put all those who are breaking up the highway on the same footing and not just put additional obligations on the telecommunications operators.

Sure is happy to work with the DOI on how best to manage ensuring that any new fibre is mapped in an accessible manner.

In response to MT's query about whether the Commission would be setting standards for fibre laying, the Commission would see this as a function of the Strategic Infrastructure Group and the Joint Utilities Group.

The Commission in its Decision has stated that Sure should be a member of the Strategic Infrastructure Group and the Joint Utilities Group.

3.6 Universal Service Obligation

Mr T Quayle commented on the fact that Sure will not have the same obligations to provide a service as MT is obligated to provide under its Licence, which he stated as "an unfair advantage within what is relatively a small marketplace for any telecommunications operators to carry out business".

Commission's response

MT have, as the incumbent, an obligation to provide a Universal Service which covers

- Provision of a telephone service on any reasonable request.
- A scheme for users with special social needs – MT provides a no frills basic phone only service at a reduced cost.

- Provision of phone boxes
- Provision of Directory Services

The granting of Code powers does not confer any extra obligation on Sure in respect of provision of such services. The Communications Bill did consult on a proposal that at some point a Universal Service Fund could be established whereby operators on the Island would pay a proportion in order to fund certain services. It is not envisaged that this would be put into place in the near future, but could provide a vehicle for allocating costs more across operators if that was seen to be more proportionate. There would need to be a clear examination of the actual circumstances of the operators before any such fund was established.

The intention of modifying Sure's licence to include Code powers is not to give them the same licence as Manx Telecom. The intention is that Sure will have the rights and responsibilities that come with being a Code Operator.

Mr T Quayle made the point that there seemed to be little benefit to the 'ordinary consumer' to the proposals. The Commission understands that Sure is making a commercial decision in rolling out a network and that it will be aimed at business consumers where they see there will be a wider benefit to the Island community. The letters of support from businesses also highlight this factor.

3.7 Further applications for Code Powers

The MUA has indicated previously as well as in the response to this consultation that they may wish to have telecoms Code powers applied to them. The Commission would consider any application under the same criteria as has been applied in this case, i.e. that the running of the system will benefit the public; and that it is not practicable for the system to be run without the application of that code to that person.

3.8 SMP obligations and Code Powers

The Chamber of Commerce in its response asked some specific questions in relation to Significant Market Power and Code powers.

"1) Would the provision of code powers mean that Sure are deemed to have SMP?"

"i) If so, what controls will be established in terms of assuring that Sure competes in a fair manner with operators deemed not to have SMP. Will there be a requirement to provide wholesale services to operators deemed not to have SMP and ii) If not, how is this threshold defined and assessed?"

Commission's response

The competition assessment which would lead to an SMP designation takes into account demand and supply factors in the defined relevant market, so having code powers, or even having a network, would not be sufficient in itself to come to an SMP finding.

The Commission based its analysis of the telecoms markets in the Isle of Man on the framework set out in the European Commission's SMP Guidelines², which are aligned with European case law. According to these guidelines, SMP is generally defined as the ability to behave independently of competitors, suppliers and ultimately businesses and consumers in the defined market. Market shares in excess of 50% indicates that an operator may have SMP, but the analysis has to take into account a number of other factors, and has to be forward-looking.

4. Decision

The Commission welcomes the useful and detailed responses from organisations and individuals on the Island and recognises that this is seen as an important step in encouraging competition and innovation on the Island.

The Commission has concluded that, in keeping with its preliminary view, granting Code powers to Sure would be in the public interest and that it is not practicable to build and run the network without the application of Code powers.

Sure must actively participate in the Joint Utilities Group and the Strategic Infrastructure Group and actively work with DOI to ensure that DOI's conditions are met in relation to the highways.

Sure must ensure that:

- (a) that the physical environment is protected and in particular, that the natural beauty and amenity of the countryside is conserved;
- (b) that there is no greater damage to streets or interference with traffic than is reasonably necessary;
- (c) that funds are available for meeting any liabilities which may arise from the exercise of rights conferred by or in accordance with the code.

The next steps are to put the proposals forward for approval at October Tynwald.

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² Commission guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications networks and services, (2002/C 165/03)

Annex 1: Non Confidential Responses

1. Response from Nigel Jones, Complete Technology

I believe granting code Powers would be a positive and important step forward in developing the Isle of Man's telecommunications provision.

I expect that by supporting Sure in its desire to build and deploy its own independent fibre network the Isle of Man stands to benefit in a variety of ways:-

- With the ever present cost pressures in the Financial Sector there is an increasing tendency for businesses to use off-island datacentres and/or cloud based solutions. These solutions work most effectively when a business is able to utilise a truly diverse wide area network. At present, with Manx Telecom the only provider of fibre, any customer choosing Sure to deliver network services is still constrained to using the same fibre network, and as such achieving true diversity and resilience is a challenge.
- When a market has choice, it is usual to see a beneficial downward effect on price.
- Product choice and lower costs encourage existing business to remain in the Island and prove attractive to businesses looking to locate to the Isle of Man.
- Having a business such as Sure commit to investment in the Isle of Man, can only be seen as a positive for "Isle of Man plc"

I support Sure's application and desire to expand their services and believe the addition of Code Powers as necessary for it to be able to build out an independent fibre network, which will bring benefits to the business sector, the consumer market and ultimately the Isle of Man as a whole.

2. Response from Fergal McLoughlin, Synapse 360

Synapse360 provide's business to business services, employing 24 people on-island specialising in IT services and solutions. One of the greatest challenges we have faced in the 17 years offering such services to local businesses has been the cost to connect our customers to our services. Sure have been one of the only companies we have worked with who have brought any innovation to this area allowing us to bring down our services costs by utilising such innovation (namely wireless connectivity technology).

Any ruling that expands upon their ability to innovate means Synapse360 can continue to reap the benefits further investing in services, people and the Isle of Man.

3. Response from Nigel Birchenough, Thomas Miller Investment

As a local business we heavily rely upon new technologies and communication methods to ensure we keep at the forefront of the market and assist in maintaining the competitive advantage amongst our competitors. Having contacted Sure on numerous occasions for services, it has been made clear that they have not been in a position to offer us what we need in relation to our connectivity on and off Island and have felt that our only option is to use another local provider who appear to have a monopoly on the market of connectivity to a large degree. By having Sure in a position to invest in new technologies, I feel it will create

a thriving competition amongst local providers who will push themselves further to deliver new and exciting services that could benefit the whole Island.

I feel the request from Sure in itself shows their commitment to the Island infrastructure and services they want to provide, which I fully support.

4. Response from Leon Turner, Microgaming

Microgaming Software Systems supports the request from Sure for Code powers to be added to its operating license. Microgaming's engagement with Sure is a successful business partnership where Sure supplies telephony services and adds value in the process. The belief is that with a more level playing field Sure will more easily compete with the competition and as a result we, as consumers, will benefit as there will be better service and more innovation available in the market.

Some of the key factors we considered when supporting this application are:

- Competition, especially in Telecommunications, is a key component of any successful economy
- Telecommunications are critical services to the business community
- There has been little innovation in business connectivity services due to the lack of fibre competition
- Having two fixed infrastructure providers strengthens our inward investment story as an island. This is critical to Microgaming. Microgaming has a strong CSR initiative that is committed to making our island a healthier and happier place. The more attractive we make the island, the better for everyone. This starts with making it an attractive place to operate a business from, not simply use for brass plate companies.
- The availability of new innovative services and competition into the market will benefit businesses and then the economy as a whole.
- New connectivity services and solutions also benefit other local service providers and service integrators
- Sure has a proven record of creating competition to the benefit of the island

Microgaming believes Sure's willingness to invest on the island should be supported and encouraged.

5. Response from Carol Glover, IoM Enterprises

I write on behalf of IOM Enterprises PLC, one of the largest business operators and employers on the Island, who uses complex and sophisticated technology and communications across the group and particularly to run its major IOM based business, Shoprite.

Three years ago we moved much of our infrastructure provision on the Island to Sure, and in the intervening period we have found them to be a professional, innovative and customer focussed provider.

We would therefore support the Commissions preliminary view to award Sure code powers, based on our experience with them over the last three years, and the plans we have as a business to further enhance communications and technology in our business, and specifically in terms of enhanced resilience.

We would expect that increased competition in the provision of fibre based connectivity will be a benefit in terms of service, reliability, and reduced costs. This is especially important as so many businesses on the Island are telecommunications dependent as well as new connectivity services and solutions having knock on benefits for other local service providers and service integrators.

In terms of the wider economic context of this application, the willingness to invest on the Island, by Sure, a company with a proven record of creating competition to the benefit of the island, should be supported and encouraged, because having two fixed infrastructure providers is an increasingly vital component of a growing economy and thus strengthens our inward investment story as an island.

6. Response from Deb Byron, Chamber of Commerce ICT & E-Business Committee

The Chamber of Commerce ICT & E-Business Committee would like to make comment on the application by Sure for the addition of Code Powers to their licence.

As per our response to the Consultation on the 2015 Communications Bill, the general view of the Committee is that competition drives innovation and that the current lack of effective competition in the fixed market is impacting inward investment and forcing customers to pay higher prices.

The Committee is in favour of Sure being given Code Powers as part of their licence with the exception of two Committee members who are somewhat conflicted due to their employment either directly or indirectly by Manx Telecom. These members have taken the option to not be included in this response. Manx Telecom will be responding separately.

Whilst it is recognised that there is a risk that granting Sure Code Powers will reduce Manx Telecom's investment in its infrastructure, this would be expected when a competitor invests to gain share in a market where there is a dominant player. A likely scenario is that the net

effect would be an equal or increased IOM investment spread across the parties, and a resultant competitive situation to drive down product pricing.

The Committee believes that the optimum position for the Island would be for Manx Telecom to now move quickly and offer sensible wholesale prices within sensible timescales, removing the requirement for Sure to install their own infrastructure. This is clearly dependant on Manx Telecom's long term strategy and commercial decision making.

The Committee does have one concern around the installation process. In Sure's application document, there is a paragraph which states '*Sure would be able to control its build costs and utilise access methods and technologies that allow quicker deployment of fibre, or alternative methods that are cheaper than traditional trenching, and methods that may minimise the impact to road users*'.

We are not clear if there is legislation/regulation which governs or controls the manner in which fibre is installed. Our understanding is that the DOI currently require an installation depth of 750mm in the roads, and 450mm in the pathways. Is this something that Sure would be required to conform with?

Given that a key part of Sure's proposal is to use alternative methods of installation compared to traditional trenching, there are three scenarios that we would like to be given consideration as part of the 'conditions' of granting Code Power:

1. Prior to installation of new fibres, that Sure work with the Strategic Infrastructure Group to ensure existing services are not put at risk (eg MT, MUA etc);
2. If MT/MUA/DOI wish to install a new service, that their installation would not be hampered or restricted by non-standard installation methods from Sure (eg shallow micro-trench criss-crossing existing core fibres etc);
3. That Sure register their fibre installations with the IOMG GIS to ensure that location of services records are accurate and up-to-date.

The Committee also has a query with regards to Significant Market Power (SMP). One of the definitions often referenced by the Communications Commission in relation to competition rules is SMP. According to the OECD, an operator is presumed to have SMP if it has more than 25% of a telecommunications market in the geographic area in which it is allowed to operate. An operator deemed to have SMP is usually subject to specific obligations which are not applicable to an operator without SMP. This can include a universal service provision clause for example.

Given the above:

- 1) Would the provision of code powers mean that Sure are deemed to have SMP?
 - i) If so, what controls will be established in terms of assuring that Sure competes in a fair manner with operators deemed not to have SMP. Will there be a requirement to provide wholesale services to operators deemed not to have SMP.
 - ii) If not, how is this threshold defined and assessed?

7. Response from Phil King, CEO, Manx Utilities

Thank you for the opportunity to comment on Sure's application for Telecommunication Code Powers. The views expressed below represent those of the Manx Utilities Authority ("MU") and its wholly owned subsidiary company e-llan Communications Ltd ("eCL").

As a Statutory Board of Tynwald we are naturally committed to the Isle of Man Government's (IOMG) fundamental objective of growing the economy, including the delivery of Vision 2020 with its special emphasis on technology and infrastructure as a foundation for innovative SME's to relocate and grow. We therefore support the IOMG's desire to further liberalise the telecommunications sector for the ultimate benefit of consumers and businesses on the Isle of Man. We also recognise the crucial role well-designed regulatory mechanisms can play in effectively stimulating investment, innovation and enabling the development of new products and services. We understand that the vesting of Telecommunication Code Powers is a very important regulatory mechanism, potentially impacting on multiple stakeholders, and we appreciate that the responsibilities of the grantor and the grantee during and following the application of the powers must be taken extremely seriously.

In consideration of the above we welcome Sure's continued commitment to the Isle of Man contained within its application letter of 4 April 2016. We know that the Communications Commission (CC), CoMin and ultimately Tynwald must establish whether this application is both in the public interest and that it is not practicable to build and run the proposed network without the application of Code Powers. We respect the CC's initial determination and hope that our information contained herein will help you with your further deliberations.

We note that the CC has not previously received a Code Power application, and whilst it proposes the use of sound evaluation criteria in our view, we request that the following matters are specifically considered in its deliberations:

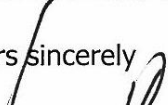
1. We note under sections 5 and 6 of the CC's Consultation and Notification document that the Commission acknowledges the existence of alternative networks (including eCL's) from which wholesale inputs could be procured. As the Commission is aware, eCL as part of its own business plan is keen to promote the improved utilisation of its publicly owned assets (already paid for) for the benefit of the Isle of Man. We are pleased that Sure has indicated its intention to maximize the use of previous investments, resulting in other asset owners benefiting from its investment programme (page 2, bullet point 6 of the application letter) as we take this to mean that its new infrastructure will be available for other service providers to utilise. We believe that delivering on this intention will benefit Isle of Man consumers and business users, avoiding investment duplication.
2. Related to item 1 we note the importance the CC places on minimizing highway disruptions (sections 5 and 6) and Sure's commitment to utilise eCL's (and others) existing assets as a key initiative to achieve this aim.
3. We note under section 9 (Balance) the Commission's obligation to provide a balanced approach when granting Code Powers and we would hope that Sure's application would not affect any application that eCL may make as eCL's network is much broader than that proposed by SURE and as previously discussed there is merit in eCL making its own application.
4. MU has significant experience in the responsible use of Code Powers and practical issues that arise on the Isle of Man as applied to its power, gas and water & telecoms operations, especially in relation to coordination of installed equipment with other utilities. We note under section 7 of Annex 2 (Additional Conditions) the Commission has essentially set an obligation for Sure to ensure that it does not adversely impact Manx Utilities' installed equipment (existing or future). Inappropriate installation may result in another utility adopting more expensive methods for new installations or maintenance of existing assets. This is particularly important in respect of any modern techniques that may be used to deploy equipment as indicated in Sure's application letter (page 2 bullet point 3). The CC may wish to consider the UK's approach in this context.
5. In respect of item 4 above, installation standards must be sound and fit for purpose using acceptable burial depths. As an example of a potential issue, traditional techniques using metal detection systems to identify underground services may be unable to detect fibre and often a metal trace is installed within the duct to mitigate this issue. Therefore we believe appropriate emphasis must be placed on installation standards and coordination with other stakeholders, for example with the Strategic Infrastructure Group (Chaired by the Department of Infrastructure).
6. There is inference in the consultation documentation, which I am sure is not the CC's intention, and in Sure's letter that in having Code Powers a licenced operator would be able to place its assets in a third party's property free of charge. Whilst the powers would confer the ultimate right to do so, the operator firstly has to demonstrate that there wasn't a more cost effective solution. In the end, the operator is still obliged to pay the third party for their loss of amenity etc; we hope that this is clearly understood by the applicant.
7. We note under Annex 2, section 9 the Commission has made it a condition of license for Sure to maintain accurate records of underground services, which we fully

endorse. The installation records should be capable of coordination with the IoM Government GIS recording system which must be updated in a timely manner.

8. With respect to Annex 2 section 7 may we request the reference to Manx Electricity Authority (no longer exists) is amended to Manx Utilities Authority.

Thank you again for bringing this consultation concerning Sure's application for Code Powers to our attention and providing us with the opportunity to comment. We hope that our information will help with your deliberations. Please do not hesitate to contact us should any of the information contained in this letter require clarification.

Yours sincerely

A handwritten signature in black ink, appearing to be 'J. D.', written over the text 'Yours sincerely'.

8. Response from Manx Telecom

Manx Telecom understands that Sure (Isle of Man) has applied to have Code powers added to its licence and that the preliminary finding of the Communications Commission is to modify Sure's licence and grant code powers. The Commission has reached this preliminary view after assessing public interest and the impracticality of Sure being able to provide an alternative network without the Code being applied. There are a number of points in Sure's application which merit further discussion whilst considering what is the best strategy for the Isle of Man, operators and customers going forward.

Sure proposed limited deployment

In the redacted version of Sure's application letter to the Commission it is clear that the primary interest in code powers is to build a business-to-business service based on "fibre optic network in key strategic locations on the Isle of Man, including the Central Business District (CBD) in Douglas, the Isle of Man Business Park, Ronaldsway and other pockets of business that Sure has identified as potential beneficiaries of its investment". Whilst this type of low-risk investment makes sense for Sure and the businesses located where Sure consider to be of greatest commercial interest it will over time expose the true cost of providing services to the rest of the Island.

We have two principal concerns:

- Firstly, this is a cherry picking approach which means that in principle the Commission should be very mindful of the public interest test.
- Secondly, it is likely to increase the pressure for differential pricing, increasing the prices of remote towns relative to these privileged areas of high business density

Taking each of these points in turn, to grant an operator Code powers on the explicit understanding that they intend to cherry-pick high value customers in high-density business areas and cause disruption to Islanders without concern for the less commercially attractive customers or parts of the Island is not in the public interest. It may be that on this occasion the Commission is satisfied that this public interest test is passed, but we would not want this decision to form a precedent for other networks seeking code powers for even greater "cherry picking".

Secondly, the economics of providing connectivity are quite straightforward: the shorter the physical length of a fibre link and the higher the concentration of customers the more cost-effective the provision of a fibre service. Manx Telecom has a Universal Service Obligation as part of its operating licence to provide circuit services across the whole Island.

The proposed Sure deployment will accelerate differential pricing in the Isle of Man, and will tend to pull businesses seeking high speeds to these specific locations rather than encouraging economic development elsewhere.

With relatively few customers benefitting directly from the proposed Sure fibre deployments and the potential of an adverse cost effect on services to other towns around the Island it is questionable whether the public interest is being met by granting additional Code powers unless firm commitments are made or binding rollout obligations are included as part of the licence amendment.

Duplication of network infrastructure

For a small Island economy it is essential that assets are utilised effectively and efficiently and duplication avoided wherever possible. Manx Telecom and Sure are in discussions around ways that telecoms assets be shared to provide more cost-effective solutions to customers. It seems contrary to this approach for additional trenches to be dug and fibre to be laid (with all the disruption and inconvenience to the general public this brings) when not only do Manx Telecom have an Island-wide fibre network (offering services whose prices are highly regulated) but E-llan/DoI also have extensive fibre deployments that aren't currently being fully utilised to generate value for the Isle of Man. Manx Telecom has been in discussion with the Isle of Man Government for some time looking at various ways in which E-llan assets may be used more effectively. This could either be as part of a strategy to relocate valuable business to the Island or creating an environment, geographically or by industry sector where barriers to entry could be reduced or removed with a more innovative pricing approach. A strategy of getting greater value from what is already in place is surely preferable for the Isle of Man than duplicated multi-party investment. Carrier diversity could already be offered to customers using E-llan fibres.

Sure proposed approach to technology

In its application Sure claims that it "would be able to control its build costs and utilise access methods and technologies that allow quicker deployment of fibre, or alternative methods that are cheaper than traditional trenching, and methods that may minimise the impact to road users". It also states that "options such as micro trenching, draping fibre from building to building and utilising existing utilities assets have also been explored". There are many alternative methods for offering fibre services with varying deployment costs. Is it the intention of the Communications Commission to determine acceptable means of deploying fibre? There was a concerted effort a number of years ago in the Island to move from overhead cables to underground fibre deployments. Whilst considerably more expensive the visual and environmental benefits were seen as worth the additional costs. Should Sure be successful in having Code powers added to their licence Manx Telecom would expect a level-playing field to apply between all Code power holders in terms of the methods permitted for deployment and the corresponding visual and environmental impacts that are tolerated.

Isle of Man Telecoms Strategy

It is our understanding that the Department of Economic Development is about to undertake an independent review to aid the development of a telecoms strategy for the Isle of Man. This will be a key piece of work in determining practical steps to deliver the Isle of Man Digital Strategy and Vision 2020. It is our considered view that a decision as important and as difficult to reverse

as issuing Code powers to a licensed operator should be made after the review rather than during it. The on-island market for dedicated capacity is critical in attracting business to the Island and ensuring Isle of Man plc growth. Manx Telecom has Significant Market Power (SMP) in the wholesale market for on-island dedicated capacity, a designation made after the 2011/2012 market reviews. However in the time since the market reviews took place there has been significant change in this market. Alternative technologies and operator strategies mean that a fresh approach may be needed to ensure that the Isle of Man remains competitive in the face of competition from other jurisdictions. It is our view that a collaborative approach between Manx Telecom and the Isle of Man Government using existing assets and infrastructure to explore and deliver the recommendations of the imminent telecoms strategy review will be the best outcome for the Isle of Man, other operators and Isle of Man customers. A short term decision to allocate additional Code powers, whilst superficially attractive in terms of increased competition in limited areas, may not deliver the desired outcome to the benefit of the Island as a whole.

9. Response from Mr T A Quayle

I write in respect to the notification of proposed modification to Licence issued to Sure (Isle of Man) Limited under s.5 of the Telecommunications Act 1984

Firstly I must state as a retired individual I have no vested interests with any operator on the Island.

I have however been employed within the telecommunications industry for over 38 years and have a breadth of knowledge within the external telecommunications network infrastructure here on the Island having managed the design, development and installation of the Manx Telecom external network for over 20 years.

I would therefore wish to make the following comments / observations:

I note that Sure have determined that they can provide service quicker than the incumbent operator. This is questionable as the resource required to install telecommunication underground/overhead network would be the same for any operator so I question this statement as not being factual or fair to the incumbent.

Section 15 of the "Consultation and Notification of Proposed Determination" document makes clear reference to fibre networks being contained within ducting and buried to a depth of 600-750mm which offers a superior, more flexible solution than their wireless connectivity. This may be true, however this raises the following points:

1. The proposal will, no doubt, require excavation in either the carriageway or footpaths around the Central Business District areas etc. in an already overcrowded environment
2. For many years the Department of Infrastructure have raised their concerns in this respect at both Joint Utility Group and IOM Government Strategic Infrastructure Groups not only regarding the congestion within the ground but also the degradation of surface areas along with the impact on the public through road closures and traffic management requirements.
3. The MEA/MUA has also consistently raised their concerns in respect to usage of the carriageway / footpaths by other utilities over many years.

Looking broader at the proposed changes I would also make the following comments / observations:

1. I feel that the potential use of other public utility infrastructure / assets by a private organisation for commercial and financial gain is not appropriate or fair in the face of the competitive environment operated within the telecommunications industry.
2. Serious consideration needs to be given to the potential future capital investment in telecommunications infrastructure that making these changes could have on the Isle of Man as a whole and the potential for further inward investment
3. The application is clearly aimed at creaming of high revenue streams (cherry picking) without the overall demands put on the incumbent by their licence.
4. There appears to be nothing in these proposals for the ordinary consumer although Sure claim they will drive additional value to the consumer and business – clearly they are aiming at business to business for the potential value involved – profit.
5. Over several years the Isle of Man Government has invested millions of pounds in “Regeneration Programme” throughout the island and the thought of using a ducted solution would in my view destroy these new high profile surfaces – Imagine a slot trench down through Strand Street / Nelson Street /Parliament Street Ramsey – doesn’t make sense to me I’m afraid
6. Athol Street and Finch Road business areas have had capital investment by the Department of Infrastructure to upgrade the footpaths and carriageway – obviously Sure’s desire to deliver in these business areas will derogate this government investment if they are to provide service in these areas – we wouldn’t wish to see telecommunications infrastructure attached to the outside of building in the areas which is clearly a suggested option for their proposed service delivery
7. The use of slot trenching in already very congested footpaths will by its very nature have the potential to damage existing services and disrupt public and business services due to the very nature of the installation processes used.
8. Regardless of the desired installation processes considered there will need to be jointing chambers built to accommodate flexibility, adding to already congested areas.
9. It is suggested that services could be secured to building structures to reduce the need for underground services – you don’t need to look to far in the UK to see the eye sores that this strategy creates with cables dangling on the face of building – fact
10. If the Communications Commission is determined to open up the marketplace in respect to licence content it would not be unreasonable to ensure that included in the Sure upgraded licence the provision to support the communities of the Island and ensure that they contribute to the provision of Public Telephone Kiosks etc. if the desire is to move towards a common and fair licence regime. Clearly if this does not happen the Commission is giving the competition to the incumbent and unfair advantage within what is relatively a small marketplace for any telecommunications operator to carry out business.
11. I note that there is no mention of the “Universal Provision Clause” within the proposed new licence which may be an oversight, however, thought needs to be given to the benefits of this to allow for a fair and reasonable playing field for all those operating within the telecommunications sector.

12. Has the Communications Commission consulted with the Department of Infrastructure in respect to any concerns that they may have regarding the potential derogation of the footpath and highway infrastructures and the potential for further chambers to be located in the ground in what is obviously already a crowded area for utility services – this should be a key consideration to ensure that any change in licence terms does not impact of capital / maintenance budgets for the Department as a direct result of proposed changes to the Sure licence.

To conclude, Sure's application (in my opinion) is clearly aimed at creaming of high revenue business streams without the burden of the other requirements of the licence of the incumbent operator. Furthermore there appears to be no real benefits to the ordinary consumer in these proposals.

Regardless of what is contained within Sure's submission regarding lead times etc. there will be the same installation processes required and without taking short cuts; timelines will be similar – there is a likelihood that the same group of local contractors would be used to deliver these requirements so the argument put forward by Sure is flawed.

Finally, I would be happy to be contacted to expand on my views should this be required.

10. Response from Mark Lewin, Director, Government Technology Services

Further to the consultation issued on the Communication Commissions' website, I have been asked as the Director of GTS to comment as a major purchaser of telecoms services on the Island.

In context terms, GTS procures the majority of its telecoms and network services from Manx Telecom who has historically been the only vendor able to provide these services, but has increasingly been opening up through competitive process further services as they have become available, some of which have been awarded to Sure.

GTS is committed to the continued pursuit of competitive procurement and as a result of the opening up of fixed and mobile services is planning a large scale tender process towards the end of 2016 which has been communicated to both Manx Telecom and Sure. These services are available due to the opening up of wholesale in this product space.

In an economy that is increasingly reliant upon digital services and digital skills, I share the belief that it is critical to continue to develop network and telecoms services, increasing the breadth of products and technologies as well as driving down the costs to the end consumer and ensuring there remains a valid investment plan to maintain and invest in the infrastructure. Liberalisation is a model globally that is shown to support these objectives.

As outlined above GTS is also committed to transparent procurement of services, and this might be either directly through separate physical capability, or a broader wholesale / retail model.

Consequently the application for code powers prima facie is to achieve increased competition and improved offerings through a selection of providers, and therefore I am broadly supportive of this request in line with the above general direction.

I would add however that I lack any information on the potential impact this might have on the existing extensive network and would still expect to see continued progression towards liberalisation of the existing infrastructure for the benefit of all.

This re-use and sharing of existing infrastructure in a working wholesale / retail model would presumably be lower cost and less disruptive than a separate new infrastructure and as per Sure's request would desire to see code powers used as the last resort where sharing / wholesaling has not been achieved.

In declaring this position I would add that as an attendee at both the Chamber of Commerce IT committee, and the E-Ilan Communications Board, I have seen sight of both responses and whilst generally supportive of the application would echo some of the concerns noted already including:

- **Powers** – if ultimately the Commission’s decision is to award code powers, it should be on the same footing as other holders of these powers.
- **Coordination** – As with the other holders, all strategic infrastructure should be coordinated as part of the Strategic Infrastructure Group and asset tracked in a format comparable with the GIS mapping systems and the coordination and recording and tracking of assets in this manner would need to form part of any licence.
- **Standards** – all carriers with such powers should have the same technical requirements – either in depth terms or protection terms. Thus if there is a case for shallower micro-trenches, this should be available to all parties. I note the concerns around identification of equipment by other parties should different technologies be used and again would support the principle that the standards are set and agreed as part of the Strategic Infrastructure Group.
- **Strategic** – There are some aspects of critical infrastructure that is unable to sustain large scale competition on a relatively small Island, and as such any dis-benefits of allowing separate infrastructure by multiple parties should be considered as part of any decision process. The recently commissioned strategic review of telecoms / connectivity by the Department of Economic Development should therefore provide some further thoughts on this topic.
- **Liberalisation** – regardless of the Commission’s ultimate decision, the existing trajectory to encourage the existing infrastructure to be made available through a working wholesale model for network services should still continue and press ahead.

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11. Response from Jeffrey F Robinson, Director of Highway Services, DoI

Please accept this response to the Communications Commission's Consultation on Sure (Isle of Man) Limited(Sure)'s request for Code Powers under the Telecommunications Act 1984. This response is prepared and submitted on behalf of the Department of Infrastructure (the Department).

As you might expect, the Department makes no comment on the need or desirability of increased competition in the telecoms market or the requirement to install infrastructure to facilitate increased competition. This is a matter for the Communications Commission and the Council of Ministers. The Department would also like you to note that it has duties in respect of the oversight of the Manx Utilities Authority (MUA) and provides a political link into the Council of Ministers. This response does not contain the views of the MUA. The MUA will make its own representations to this consultation. You may also be aware that the Department chairs the Joint Utilities Group and the Strategic Infrastructure Group. This response does not represent the views of those groups and the Department would expect members to make their own representations.

Obviously, the Department does not want more disruption to the highway and its structural integrity, but understands that the Council of Ministers and the Communications Commission wish to promote increased competition and that this necessitates the installation of infrastructure in the highway; therefore the Department does not object to the granting of Code Powers to Sure.

The Department is however, keen to minimise disruption to highway users and to the integrity of the highway. In this respect, the Department would like to make it a condition of the licence that Sure attends and actively participates in the Joint Utilities Group.

The Department requests that the requirements of Annex 2, Paragraph 8 of the draft be expanded to make clear that in working on and breaking into the highway Sure must comply with highway legislation and act in accordance with the requirements of a Statutory Undertaker under that legislation.

The Department requests that the last line of Annex 2, Paragraph 8.1(f) be changed by deleting "its previous form" and insert in its place "a manner to be agreed in advance with the Highway Authority".

Sure should be aware that the installation of apparatus above the full depth will not normally be acceptable to the Highway Authority and that any shallow installations in the highway will be treated as sacrificial for the purposes of future maintenance on or in the highway with no compensation. If a large network of Shallow Service installations were to be allowed it would dramatically increase long term maintenance costs for the Highway Authority in particular, but also for other Statutory Undertakers. On this basis the Department welcomes the stipulation of minimum depths in Annex 2, Paragraph 8 and expects that these depths will not be reduced by Sure without the express agreement of the Highway Authority.

In order to facilitate the safe and efficient maintenance and management of the highway asset and the infrastructure within it Sure must agree to share asset location and depth information with the Highway Authority and others working in the highway. The Highway Authority wishes to build a robust understanding of the location of the infrastructure within the highway Sure must provide the Highway Authority with mapping data in a suitable format for ESRI ArcGIS (e.g. Shapefile or Geodatabase). In addition, they must provide prompt access, preferably automatic, to Sure's drawings of 'as built' apparatus surveyed locations including depth. Ideally this information will be in Auto CAD (DWG or DXF) and suitably layered so that the appropriate data can be exported to our construction drawings. If Sure is concerned about Government holding any of this information, which may be commercially sensitive, then the Highway Authority is open to discussion on to whom and when it allows to access this information.

The conditions outlined above are intended to ensure the safe and efficient long term management of the highway and the infrastructure on and around it. The Communications Commission should consider whether these conditions should be replicated for others with existing Code Powers.

12. Response from William D Mummery, Executive Director, Celton Manx Ltd

I am writing in respect of the above Code Powers Application submitted by Sure IOM and in my capacity as Executive Director of Celton Manx Limited a significant Remote Gambling business located, licenced and regulated in the Isle of Man

Having studied the two documents available from your Web Site I would like to register my support to this proposal on the grounds that it will further increase the liberalisation of the market and therefore choice of service suppliers available to businesses that are significant consumers of these products

It is in my view a logical extension of previous measures introduced to increase competition and one that will benefit Isle of Man businesses and therefore the economy

Annex 2: Code Powers to be attached to Sure's Licence

SCHEDULE x: EXCEPTIONS AND CONDITIONS RELATING TO THE APPLICATION OF THE TELECOMMUNICATIONS CODE

Paragraph 1

1. Registered Buildings and Ancient Monuments

1.1 For the avoidance of doubt it is hereby declared that nothing in this Licence affects:

(a) the statutory requirement that the consent of the Manx Museum and National Trust (publicly known as Manx National Heritage) shall be obtained before any work is carried out which will affect the site of an ancient monument scheduled under the Manx Museum and National Trust Acts 1959 to 1986; or

(b) the obligations imposed on the Communications Provider by virtue of the Town and Country Planning Acts 1934 to 1999.

Paragraph 2

2. Overhead Lines

2.1 Without prejudice to paragraph 1.1, the Communications Provider shall take steps to ensure that, wherever practicable, taking into account the need to provide telecommunication services at the lowest reasonable cost, new lines (other than overhead Service Lines flown from poles) installed after the date on which this Licence enters into force are installed underground.

2.2 The Communications Provider shall consider carefully a request by any person that any of its existing lines be resited underground. If the Communications Provider is satisfied that the person making the request will pay the costs of placing the lines underground, the Communications Provider shall, wherever it is reasonable and practicable, so place the line. In other cases, except where the request is frivolous, the Communications Provider shall be obliged within 28 days of receiving it, to give notice of its decision whether or not to accede to the request in writing to the person making the request giving, where it decides to refuse, reasons.

2.3 Where telecommunication services are to be provided to a person occupying or proposing to occupy a new development the Communications Provider shall consider in conjunction with those responsible for the development and any other statutory undertaker providing or proposing to provide a service to persons occupying that development whether lines can be installed underground on a shared cost basis.

Paragraph 3

3. Manx Museum and National Trust (publicly known as Manx National Heritage)

3.1 Except in the case of emergency works, before installing any telecommunication apparatus for the purpose of providing a service to the occupier of any land which the Manx

Museum and National Trust (publicly known as Manx National Heritage) has notified the Communications Provider that it owns, or holds any interest in, the Communications Provider shall:

- (a) give the Trust written notice of its intention to do so, describing the proposed works; and
- (b) consider any written representations made by the Trust within 28 days of the giving of such notice to it by the Trust.

3.2 The requirements of paragraph 3.1 are satisfied where the Communications Provider has complied with the statutory requirement referred to in paragraph 1.1(a).

Paragraph 4

4. Placing of Underground Apparatus in Ducts

4.1 All lines installed underground after the date on which this Licence enters into force, in a part of a maintainable highway which is paved, shall, whenever practicable, be installed in Ducts.

Paragraph 5

5. Height of Overhead Lines

5.1 Lines installed over the carriageway of a maintainable highway shall be placed at a height of not less than 5.5 metres above the carriageway except where the Highway Authority has previously otherwise agreed in writing.

Paragraph 6

6. Maintenance and the Safety of Apparatus

6.1 The Licensee shall from time to time take such steps as it considers reasonable to inspect its telecommunication apparatus which is not inside a building and which is on or above the surface of the ground with a view to ensuring that it will not cause harm to other persons or property; and the Communications Provider shall notify the Commission of its arrangements for inspecting such telecommunication apparatus.

6.2 In addition to carrying out inspections of its own telecommunication apparatus on or above the surface of the ground the Communications Provider shall investigate any report (other than a frivolous one) of any of its telecommunication apparatus (wherever situated) being in a dangerous state and to remove any danger.

Paragraph 7

7. Arrangements with Manx Utilities Authority

7.1 Subject to any modifications agreed between the Licensee and the Manx Utilities Authority, the Licensee shall:

(a) where it installs and keeps installed telecommunication apparatus in proximity to previously installed plant which is the responsibility of the Manx Utilities Authority, continue to observe the terms of existing agreements or arrangements concerning the engineering principles to be adopted and the allocation and apportionment of costs which arises; and

(b) where the Authority gives notice that it proposes to install its plant in proximity to any of the Communications Provider's installed telecommunication apparatus, continue to observe the relevant terms of the agreements and arrangements referred to in sub-paragraph (a) above.

Paragraph 8

8. Instructions for the Installation of Apparatus

8.1 Without prejudice to any of its statutory obligations the Communications Provider shall take all reasonable steps to secure (in particular by giving instructions to its employees and agents) that:

(a) where telecommunication apparatus is to be installed underground in a maintainable highway, the normal practice wherever practicable will be to place it in the verge or footway if any rather than the carriageway;

(b) provision is made for any new Ducts installed after the date on which this Licence comes into effect to contain sufficient spare capacity to meet demand which is reasonably foreseeable by the Communications Provider for telecommunication services provided by it;

(c) attention is drawn to the need wherever practicable to place lines at minimum depths of cover appropriate for the locality (varying between 350 mm and 600 mm in footways and between 600 mm and 900 mm in the carriageways);

(d) regular liaison is maintained with the Highway Authority with a view to ensuring that, as far as possible, telecommunication code works which entails breaking up the surface of the highway are carried out in advance of scheduled resurfacing works or together with other schemes affecting the highway;

(e) regular liaison is maintained with statutory undertakers and other operators to whom the telecommunications code is applied with a view to reducing the disruption of the services provided by those persons;

(f) where telecommunication apparatus is installed in a manner which involves the breaking up or opening of the highway and the Communications Provider is to do the reinstatement and making good at upper levels, all reasonable steps are taken to reinstate the surface of the highway in its previous form;

(g) with a view to reducing to a minimum the need for the erection of new poles or the construction of new Ducts, before installing any such poles or Ducts steps will be taken to investigate the possibility of using existing poles, Ducts or other conduits;

(h) attention is drawn to the desirability of:

- (i) installing the minimum practicable number of poles and other items of apparatus, allowing for estimated growth in demand for telecommunication services; and
- (ii) protecting the visual amenity of properties in proximity to which poles or other items of apparatus are installed; and
- (iii) lines and other items of apparatus are placed so that they do not present safety hazards.

8.2 The Communications Provider shall within three months of the date on which this Licence enters into force furnish details to the Commission of the steps taken to implement paragraph 8.1.

Paragraph 9

9. Records of Apparatus

9.1 The Communications Provider shall keep records of any of its telecommunication apparatus installed underground after the date on which this Licence enters into force which can be made available in the form of route plans drawn on an Ordnance Survey map background of one of the following scales (1:625, 1:1,250, 1:2,500, 1:10,000) according to the density of development in the area concerned.

9.2 The Communications Provider shall provide by means of a telecommunication system free of charge, to the Highway Authority or other person who is intending to undertake works in the vicinity of any telecommunication apparatus it has installed underground, a service furnishing information free of charge about the location of that telecommunication apparatus and shall whenever practicable:

- (a) respond to bona fide enquiries; and
- (b) where necessary confirm its advice in diagrammatic form and make trained staff available to give on-site advice about such telecommunication apparatus so installed,

and shall also respond to any other reasonable request from the Highway Authority for information about the location of the Licensee's telecommunication apparatus installed underground.

9.3 The Communications Provider shall co-operate in any joint projects involving persons who are statutory undertakers under any statutory provision or to whom the powers of the telecommunications code have been applied which have as their purpose the recording and making available of information about underground apparatus, unless the Commission agrees that it would be inappropriate having regard to its existing practice for it to do so.

Paragraph 10

10. Emergency Works

10.1 Where the Communications Provider executes emergency works which would otherwise require prior notice under paragraph 3, it shall, as soon as practicable after the

commencement of the works, give to the Manx Museum and National Trust (publicly known as Manx National Heritage) written notice describing the works.

Paragraph 11

11. Public or private events and construction sites

11.1 Where the Communications Provider is to provide telecommunication services for a limited period at the site of a public or private event or a construction site, it may install overhead lines and associated poles to provide that service notwithstanding paragraph 3, provided that the lines or poles are removed within a reasonable period at the end of the event or after the work at the construction site is complete.

Paragraph 12

12. Emergency Organisations

12.1 Where the Communications Provider is to provide any telecommunication service for a limited period to an Emergency Organisation in an Emergency it may, notwithstanding paragraphs 3 and 5, install overhead lines and associated poles for the purposes of providing such services as are made necessary by the Emergency provided that any such line or pole is removed within a reasonable period after such services ceases to be required.

12.2 In this paragraph "Emergency Organisation" and "Emergency" have the same meaning as in Schedule 1 to this Licence.

Paragraph 13

13. Public Inspection of Code Related Licence Conditions

13.1 The Communications Provider shall place a copy of this Schedule and of every direction given to the Communications Provider under section 8(5) of the Act in a publicly accessible part of the principal office in the Island of the Communications Provider in such a manner and in such a place that it is readily available for inspection free of charge by the general public during normal business hours.

Paragraph 14

14. Definitions and Interpretation

14.1 In this Schedule unless the context otherwise requires:

- (a) "Duct" means a structure or apparatus (with appropriate entry points) installed underground in such a way that lines can be installed in it without having to break up the surface of the highway;
- (b) "emergency works" has the same meaning as in paragraph 1 of Schedule 1 of the Act;
- (c) "Highway Authority" means the Department of Infrastructure;

(d) "line" has the same meaning as in paragraph 1 of Schedule 1 of the Act;

(e) "maintainable highway" has the same meaning as in paragraph 1 of Schedule 1 of the Act;

(f) "Service Line" means any line placed on intended to be placed for the purpose of providing any telecommunication service to the occupier from time to time of any land, as distinct from a line placed or intended to be placed for the general purpose of any telecommunication system

(g) "telecommunication apparatus" has the same meaning as in paragraph 1 of Schedule 1 of the Act.

14.2 Any word or expression used in this Schedule shall, unless the context otherwise requires have the same meaning as it has in the Act.