

Mr J Curran  
Director General  
Office of Utility Regulation  
Suites B1 & B2  
Hirzel Court  
St Peter Port  
Guernsey  
GY1 2NH

23 November 2005

Dear John

**Representations re proposal to modify the licence of Wave Telecom Ltd – OUR 05/25**

The OUR sets out its intention to modify the mobile Licence held by Wave Telecom Limited (Wave) in OUR 05/25. The modification is necessary to enable Wave to construct a Telecommunications Network and offer Telecommunications Services using the EGSM spectrum that has been allocated to them by Ofcom.

No information has been provided as to why Wave consider it necessary to use EGSM spectrum. Given that they were allocated what the OUR and Ofcom must have considered sufficient GSM 1800 spectrum in 2003 to operate and provide services in the Bailiwick, why is it necessary for Wave to use even more of what is considered a scarce resource? We understand that Wave has to surrender some of the 1800 spectrum in exchange, but in our view the whole process should be unnecessary. The large operators in the UK, i.e. T-Mobile and Orange, are able to provide good quality services using solely 1800 2G spectrum.

We consider that the processes for the allocation of spectrum and this consultation are flawed to the extent that the OUR has changed the processes that it follows in awarding spectrum. We understand, from both Ofcom and the OUR, that it has been the regulatory policy in Guernsey that the OUR will consider the award of telecoms licences in the mobile market and then ask Ofcom to award spectrum licences once the telecoms licence has been awarded. C&W Guernsey accepts that this is a legitimate process that needs to be followed by the OUR and Ofcom in each and every case. In the current situation, Wave seems to have been awarded spectrum in the E-GSM range prior to there being any public consultation on that allocation and without C&W Guernsey being afforded any opportunity to provide reasons as to why it, or another potential licensed operator, should be allocated such spectrum as well. C&W Guernsey does not accept that the reference to relevant sections in the original information memorandum constitute sufficient notice of the OUR's intention particularly after so much time has elapsed.

To the extent that the spectrum has already been awarded, C&W Guernsey considers that the OUR's discretion as to whether it alters the licence has been fettered by the prior award of spectrum. C&W Guernsey considers that the current process has not followed the standard process that is followed in Guernsey. Further, it is our view that the current consultation process is flawed in that Wave could argue that they have a legitimate expectation to have their licence

amended since they have already invested in technology and resource to change their network to allow for the use of the E-GSM spectrum.

We are also concerned about the consistency of the approach that Ofcom is adopting in relation to spectrum efficiency management. While it has been suggested that C&W Jersey can run a network in Jersey with 2 x 5 MHz of 1800 spectrum (a point we do not accept), there seems to be no similar limits on the spectrum efficiency in relation to Wave's network in Guernsey. The approach of the OUR and Ofcom in this area would seem to be inconsistent with the position in Jersey. We see no good reason why, on spectrum efficiency grounds, there should be any difference between the two islands.

One further point we wish to make is that the change-out of EGSM for 1800 will involve work on base stations and antenna, which again will cause what we believe is unnecessary inconvenience to base station site owners.

Kind regards

GEOFF HOUSTON  
Chief Executive

Cc Brian Last, Ofcom