



Office of Utility Regulation

# Telecommunications Licence Conditions

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## Consultation Paper

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**Office of Utility Regulation**  
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## 1. Introduction

The Director General Designate of the Office of Utility Regulation ("the Director General") is developing new licence terms and conditions in preparation for a fully liberalised telecommunications sector in accordance with;

- Legislation approved by the States and due to be commenced in October 2001<sup>1</sup>;
- States Directions to the Director General in relation to universal service and the extent of competition in the telecommunications sector<sup>2</sup>; and
- Expected States Direction on the identity of the first licensee to receive a licence with a Universal Service Obligation ("USO") in the telecommunications sector.<sup>3</sup>

Together, the legislation and States Directions provide that the telecommunications market in Guernsey is to be opened up to competition over the coming three years and the Director General may draw up and issue licences to provide telecommunications networks and services in Guernsey. A key element of the regulatory framework is therefore the licensing regime that will apply to both Guernsey Telecoms ("GT") and new entrants to the market.

This consultation is concerned initially with the licence terms and conditions that will apply to the first Licensee in the telecoms sector, which is expected to be GT. It is proposed that a further consultation will be undertaken on the licence conditions to be applied to new entrants to the telecommunications market. However it should be noted that wherever feasible it is proposed to apply similar terms and conditions to similar categories of organisation.

Under the legislative proposals currently being put in place, it is intended to transform GT into a States Trading Company on 1 October 2001. At the same time, with the commencement of the Telecommunications (Bailiwick of Guernsey) Law, 2001 ("the Telecoms Law") GT will no longer be authorised to provide a telecommunications service under the Telecommunications Law, 1972. Therefore it is essential that GT holds a licence to provide telecommunications services and networks from 1 October 2001 in order that it can continue to provide telecommunications services from that day.

This document sets out the proposed licence texts for fixed and mobile telecommunications services and networks and seeks comments from interested parties.

There are a number of related consultations that may be of interest to parties responding to this paper including:

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<sup>1</sup> The Regulation (Bailiwick of Guernsey) Law, 2001 (Billet d'Etat No. 1, 2001), and the Telecommunications (Bailiwick of Guernsey) Law, (Billet d'Etat No. VI, 2001).

<sup>2</sup> Billet d'Etat No VI, 2001

<sup>3</sup> It is expected that the Billet for the States of Deliberation meeting in September will include a policy letter from the Board of Industry with recommendations on this issue.

Document OUR 01/01: Regulation in Guernsey – the OUR approach and Consultation procedures.

Document OUR 01/02: Telecommunications in Guernsey: Licensing Framework for a Competitive Market – Consultation Paper

Document OUR 01/04: Notice of Proposed Decisions in accordance with the Telecommunications (Bailiwick of Guernsey) Law, 2001 – Consultation Paper

Throughout this paper there are a number of issues where the need for further work is identified, and the OUR will announce details of consultations on these topics as appropriate.

*This document does not constitute legal, technical or commercial advice; the Director General is not bound by this document and may amend it from time to time. This document is without prejudice to the legal position or the rights and duties of the Director General to regulate the market generally.*

## **2. Structure of the Paper**

This paper is structured as follows:

- Section 3 details the consultation procedure and timetable;
- Section 4 provides an overview of the proposed licences conditions;
- Section 5 provides more detail on certain specific conditions on which comments are invited;
- Section 6 describes differences in the conditions that will apply to mobile licences;
- Appendix 1 presents a table setting out each condition and its purpose;
- Appendix 2 sets out a draft pro forma fixed telecommunications licence including terms and conditions;
- Appendix 3 sets out a draft pro forma mobile telecommunications licence including terms and conditions.

Respondents are requested to comment on the proposed terms and conditions as set out in Appendices 2 and 3, and on the purpose of the conditions as described in Appendix 1. Respondents are also requested to respond to the questions set out in sections 4, 5 & 6 in relation to the completeness of the conditions, their appropriateness and whether they achieve the stated objectives.

### **3. Consultation Procedure and Timetable**

The consultation period will run from Friday 10<sup>th</sup> August to Friday 31<sup>st</sup> August, 2001. Written comments should be submitted before 5.00pm on August 31st to:

Office of Utility Regulation  
Suite B1 & B2,  
Hirzel Court,  
St. Peter Port,  
Guernsey GY1 2NH.

Email: [info@regutil.gg](mailto:info@regutil.gg)

All comments should be clearly marked “Comments on Telecommunications Licence Conditions Consultation Document”

All comments are welcome, but it would make the task of analysing responses easier if comments reference the relevant question numbers from this document. In line with the policy set out in Document OUR01/01 – “Regulation in Guernsey; the OUR Approach and Consultation Procedures”, the Director General intends to make responses to the consultation available for inspection. Any material that is confidential should be put in a separate Annex and clearly marked so that it can be kept confidential.

The Director General regrets that she is not in a position to respond individually to the responses to this consultation, but she proposes to issue a response to the consultation, including published licence terms and conditions in September.

### **4. Proposed Licences - Structure**

In preparing the draft licence terms and conditions, the Director General has taken account of the market structure where there is one incumbent operator with a very strong position for historic reasons (GT) and the potential for new entrants to come into the market. In this structure it is important to balance the regulatory obligations that GT will need to comply with in order to ensure a competitive market develops, with the need for GT itself to be able to operate in a commercial manner. At the same time, there is a need to recognise the rapidly changing nature of the telecoms sector generally and ensure that the licences contain sufficient flexibility to cope with those changes. The Licence terms and conditions therefore set out the high level obligations that the company will be required to comply with. In many cases, more specific detail will be developed by the OUR in consultation and co-operation with GT, other market players and interested parties as appropriate.

It is the Director General’s view that this approach will provide the flexibility to ensure that the needs of the Guernsey market can be met by tailoring the regulatory regime to meet the demands of a small island economy, while at the same time providing sufficient

certainty and clarity as to the regulatory rules so as to encourage entry into the market by other operators.

The table below summarises the conditions contained in the draft licence. Section 5 contains more detail on key conditions and Section 6 deals with the conditions applicable to the mobile market and how these differ from those for the fixed market.

Condition	Comment
1	Sets out the definitions which in turn define the scope of the licence
2 – 10	Sets out the scope and the characteristics of the Licence, the provisions relating to enforcement and the terms and conditions relating to suspension, revocation, renewal or modification of the licence
11 – 16	Public service conditions, conditions related to public pay phones, consumer protection and service levels.
17 – 21	General conditions relating to the use of numbers, compliance with other legal obligations in respect to access to land and access to essential facilities
22 – 32	Conditions relating to retail price control including adhering to published prices and discounts and special offers, cross subsidies, separate accounts, selling practices relations with customer bodies, undue preference and unfair discrimination and linked sales. These conditions are designed to <b>apply to any operator designated by the Director General as being dominant in a relevant market.</b>

*Q 4.1: Do Respondents consider that this range of conditions covers all relevant matters? If not, what additional conditions should be included and why?*

*Q 4.2: Do respondents consider that there are any conditions in this draft licence that are unnecessary? If so, which ones and why?*

## 5. Significant Terms and Conditions

This section describes in detail, some of the more complex terms and conditions that are included in the draft licence.

In particular, it describes certain conditions that it is proposed to include in relation to control of a dominant position (Section 5.3), regulation of prices of dominant operators (Section 5.3) and quality of service (Section 5.2). In document OUR 01/04: Notice of Proposed Decisions under the Telecommunications (Bailiwick of Guernsey) Law, 2001, the Director General has published notice of proposed decisions in relation to dominance as well as a proposed decision to apply the Code in the Telecoms Law, and respondents are invited to consider the matters raised in this paper in association with Document OUR 01/04.

## **5.1. Universal Service/Public Service Conditions**

### **Universal Service (Condition 11)**

This condition implements the provisions of the States Direction to the Director General with respect to Universal Service in the Telecommunications Sector<sup>4</sup>. The purpose of the condition is threefold;

- to impose on the licensee the requirement to provide the level of universal service that has been set out in the States Direction, i.e. a minimum level of service at an affordable price to all users, irrespective of their location in the Bailiwick – this is known as the Universal Service Obligation ('USO');
- to provide for the sharing of the cost of the USO should it be shown to be an unfair burden; and
- to provide for the licensee to contribute to the cost of USO, whether or not it has a USO itself.

### **Public Emergency Call Services (Condition 12)**

This condition requires the licence to ensure all users of telecommunications equipment can access the emergency services at all times. This will apply to mobile handsets, including pre-paid mobile handsets. The conditions will apply to all licensees.

### **Directory Information (Condition 13)**

This condition imposes an obligation on the Licensee to ensure that all users of the fixed network have access to a Directory Information service and that the information held by the licensee is kept up-to-date and not used for any purpose other than in the provision of the Directory Information Service.

The licensee is also required to co-operate with other licensed operators in providing this service.

### **Public Pay Telephones (Condition 14)**

Another important element of the States Direction centres on the need to ensure that a basic level of service is available from all public pay telephones operated by the Licensee. This condition prescribes the level of service required and the information that must be displayed to ensure users are informed of the means and charges associated with the use of the payphone.

*Q 5.1.1: Do Respondents consider these conditions meets the States' policy on universal service as set out in the law and States Directions? If not why, and what changes would you suggest to meet the objectives?*

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<sup>4</sup> Billet d'Etat No. VI, 2001; States Board of Industry – States Directions on the Regulation of The Telecommunications Sector, p341; [www.gov.gg/billets/2001/Billet\\_VI\\_2001.pdf](http://www.gov.gg/billets/2001/Billet_VI_2001.pdf)

## **5.2. Service Levels and Quality of Service Conditions**

Section 5(2)(c) of the Telecoms Law requires the Directors General to publish notice of a proposed decision to include quality of service conditions in any Licence. Document OUR 01/04 provides such notice. This document provides greater details of the conditions to be included, and so the two documents are closely related.

### **Service Levels (Condition 15)**

Many of the people of the Bailiwick rely entirely on the incumbent operator for the provision of their telecommunications services and, notwithstanding the proposed liberalisation and the introduction of competition into the market, this is likely to continue to be the case for some time. Therefore the regulatory regime must seek to ensure that the operation and maintenance of the network and services of the major player in the market continues at a sufficiently high level to meet the reasonable needs of the users of the service. This condition seeks to ensure that the Director General receives sufficient information to meet this requirement and monitor the company's network and service development. Further, given that it can be expected that the licensee will be providing wholesale services to new entrants who in turn will seek to provide services to end users, reassurance that sufficient network is being provided to meet such needs will be important in a newly liberalised market.

*Q 5.2.1: Do Respondents consider this condition is appropriate and helps to safeguard the interests of the telecommunications users in the Bailiwick within a commercial but not fully competitive market? If not please give your reasons and suggest alternatives.*

### **Consumer Protection (Condition 16)**

Ensuring that consumers benefit from the opening of the telecoms market will be of critical importance to the Director General. Therefore it is essential that all Licensees, including GT, are aware of their requirements to provide high quality service to their customers. In addition, rectifying service in the event of disruption and dealing with complaints from users in a speedy and efficient manner will also be of importance. The Director General considers that a system should be in place to enable users address such issues directly to their chosen service provider or operator. Therefore the requirement in this condition for the publication of a consumer code setting out the manner and means in which such issues can be brought to the attention of an operator, addressed and reported on, is seen as being a key ingredient in achieving this aim.

*Q 5.2.2: Do Respondents consider this approach balances the needs of consumers and the duties of Licensees appropriately? If not please suggest alternative ways of achieving consumer confidence and high quality services?*

## **5.3. Conditions to be included in licences to be granted to Dominant Operators.**

Document OUR 01/04 contains notice of the Director General's proposed decision under Section 5(2)(a) of the Telecoms Law, that GT has a dominant position in certain relevant markets, and notice of her decision to include conditions in its licence to control that



dominant position and conditions to regulate its prices, premiums and discounts. This paper provides greater detail on the relevant Licence Conditions.

### **Dominant Operator (Conditions 23 – 32)**

Subject to the Director General's final decision following consideration of comments in response to Document OUR 01/04, GT will be the only operator in the market to have been found to be dominant. Therefore this group of conditions will apply only to GT in the first instance. Over time, if other operators are dominant in the marketplace, similar conditions may be applied to them. Where an operator has such a position, it has advantages over other operators, including the advantage of having a ubiquitous network throughout the Bailiwick, a billing relationship with customers to whom it can sell new products, and an existing high profile in the market. This group of conditions are designed to ensure that this advantage is not abused or used unfairly to the detriment of competition or of customers.

The conditions are an important element of a liberalised telecommunications regime as they provide transparency and clarity to new entrants as to how GT is required to behave in the market, including their entitlements and rights to use the GT network and how much they must pay for that use, the fact that GT must treat them equally to the way it treats its own downstream arm in providing services and network. This section also includes conditions relating to the control of retail tariffs charged by GT, publication of discounts and tariffs and the requirement not to engage in anti-competitive behaviour.

*Q 5.3.1: Do Respondents consider these conditions provide adequate protection against the possibility of abuse of a dominant position by GT or other dominant licensee? Do you have any suggested additions, deletions or amendments and if so why?*

## **6. Mobile Specific Conditions**

It is proposed, in the interests of transparency and simplicity to licence fixed and mobile networks and services separately. This will provide a level of assurance to any new operator(s) entering the telecommunications market that there are clear obligations on the incumbent operator in both markets with regard to how it should behave in the competitive environment that will develop.

However because of the nature of the mobile market, it is not generally considered appropriate to apply exactly the same conditions to that business. Certain market characteristics that are applicable in the fixed market and require regulation, do not exist in the mobile market. Therefore it is proposed that the following conditions, contained in the fixed licence, will not be included in the mobile licence; These are

- (a) Public Pay Telephones (Condition 13)
- (b) Leased Circuits (Condition 25)
- (c) Linked Sales (Condition 31)

*Q 6.1: Do Respondents consider the deletion of the conditions (a) – (c) above is appropriate and if not why? Do you have any suggested additions, deletions or amendments that you consider are necessary for the mobile licence and if so why?*

## **7. Conclusion**

In conclusion, respondents are requested to comment on the matters set out in sections 4, 5 and 6 of this paper. It would assist in the consideration of responses if the question numbers in these sections were quoted in any replies. Respondents are also requested to comment on the conditions in the draft pro-forma licence as set out in Appendices 2 & 3, the intent and objective of those conditions as set out in Appendix 1, and the appropriateness of those conditions. Comments on any additional conditions, which respondents believe should be included, are also welcome.

**/ENDS**

## Telecommunications Licence – Explanatory Note on Conditions

<b>Condition No.</b>	<b>Heading</b>	<b>Purpose</b>
<b>Part I</b>		
1	Definitions	Sets out the meaning attributed to certain terms used throughout the licence document.
2	Scope of the Licence	Establishes to whom the licence is issued, the nature of the licence, the requirements with regard to the control of the licensee and obligations with respect to any changes in control of the licensee that may take place.
3	Licence fee	Requires the licensee to pay a fee for the licence.
4	Provision of Information	This condition sets out some detail on how information required by the Director General may be obtained and obliges the licensee to comply with requests and provide all relevant information and assistance to obtain information. This is a crucial condition as the information requested will enable the Director General to make determinations in the best interest of users and the market as a whole.
5	Compliance	States that the licensee must comply with any and all directions issued by the Director General or as set down in law.
6	Modification	The licence should be viewed as a living document and changes may be required to be made to it over the term of the licence to take account of developments in the market. This condition provides for such modifications and the Telecommunications Law sets out in more specific detail the process to be followed in making modifications.
7	Enforcement and Revocation	This clause provides for the Director General to revoke the licence in accordance with the process and procedures set out in the Telecommunications Law, and for the licensee's obligations with respect to the provision of service to its customers at the time that any such revocation takes place.
8	Exceptions and Limitations	While it is assumed that the licensee will at all times make every endeavour to comply with its licence and any directions given to it by the Director General, if such compliance is prevented by force majeure, the licensee must inform the Director

		General, set out the impact on its duty to comply with the Licence and set out how it intends to rectify the situation. The Director General will consider such matters on a case by case basis.
9	Integrity of the Network	This condition provides for the Licensee to take steps necessary to ensure the integrity of the network. This is important so as to make sure that services to the public are not interrupted.
10	Interests of the Bailiwick	Requires the licensee to take all reasonable steps to prevent its network and services from being used to harm the interests of the Bailiwick.
11	Term and Renewal	Provides for the length of validity of the licence and for the licensee to seek renewal of the licence. The term of the licence is 15 years.
<b>Part II</b>		
12	USO	Requires the licensee to provide the USO specified by States Direction to the Director General and to comply with any direction from the Director General with regard to this condition as may be issued from time to time. It also deals with the establishment of a fund to meet the cost of providing the universal service should that be considered necessary.
13	Emergency Calls	Requires the licensee to provide emergency calls free of charge and to ensure the codes '112' and '999' are used exclusively for such calls.
14	Directory Information	Requires the licensee to provide its customers with access to any Directory Information Service offered by any licensed operator and co-operate in making information available to enable a Directory Information Service be provided. It also requires the licensee to ensure that it does not use information for any purpose other than the Directory Information Service, and comply with data protection legislation.
15	Public Payphones	Requires the licensee to maintain and operate payphones, sets out the services to be available from them and information to be made available to users. It also requires the licensee to give notice of its intention to withdraw a payphone from a specific location.
16	Service Levels	The licensee is required to provide a development plan setting out its targets for the ongoing development of the network and services, and a monitoring plan which measures achievement of those targets. This is designed to ensure the on-going

		development of the network and to ensure that the Bailiwick is provided with the highest level of infrastructure and service.
17	Consumer Protection	Requires the licensee to publish certain information with regard to its services and conditions, the manner in which it will deal with customer complaints, the provision of itemised billing and the publication of a consumers code for the resolution of disputes and in relation to the non-payment of bills and disconnections. It also requires licensees to prepare a draft statement on its minimum service levels for customers.
<b>Part III</b>		
18	Numbering	Requires the licensee to maintain its numbering allocation in an appropriate manner. It is further prohibited from charging customers for any number allocated unless authorised by the Director General.
19	Radio Frequency Spectrum	This condition is designed to ensure that the Licensee operates any radio based infrastructure including its mobile network and services in such a way as to avoid interference to other users and that its systems comply with the international standards with regard to non-ionising radiation emissions
20	Access to Land	Entitles licensee to the powers and rights set out in the Code as set out in Schedule 1 of the Telecommunications Law, subject to compliance with other relevant laws and codes within the Bailiwick, e.g. planning laws.
21	Access	Access to the network and services of the incumbent operator may be important to aid the introduction of competition into the telecoms sector. Due to constraints on land and to protect the environment, there may be circumstances where the only feasible means of accessing a customer for an operator may be by sharing or gaining access via another operator's property or network. This condition provides that the incumbent must, if so directed provide such access on equal terms and conditions to the access it provides itself.
22	Cessation of Services	Provides for the manner in which a licensee may cease service and the steps required of it in doing so. This is designed to ensure continuity of supply for the licensees customers.

<b>Part IV</b>		
23	Determination of Dominance	Under this condition the Director General may apply the conditions in Part IV of the Licence to any licensee that has been found to have a dominant position in a relevant market in accordance with Section 5 of the Telecoms Law.
24	Equal Access	The licensee, where requested by another operator, must grant 'equal access' – allowing the other operator access to its customers over the Licensees network using a selection of access methods as set out in the licence. This is designed to facilitate the introduction of competitive service providers whose services can be used by customers by dialling a short code or prefix.
25	Interconnection	This condition is critical. It provides for new entrants being able to piggy-back on the licensee's network to provide service to its customers. It enables faster roll-out of competition in advance of new entrants building such own network as they may require. In addition it is the means by which service competition will develop. The Licensee's charges for interconnection services must be non-discriminatory and cost-oriented.
26	Leased Circuits	A key building block in enabling new entrants to compete will be the ability to offer a full suite of services. The ability to buy wholesale leased lines at terms that are no less favourable than those offered by the Licensee to its own associated companies or business divisions will be an important element in meeting this aim. In addition, larger customers are significant users of leased circuits and this condition requires transparency and non-discrimination in relation to charges to such customers.
27	Separate Accounts	To aid the Director General in ensuring compliance with other conditions, the ability of the licensee to show that there is no below cost and/or cross subsidisation of any element of the business will be paramount. Keeping separate accounts for different activities is essential to calculate this.
28	Cross Subsidisation	This condition prohibits unfair cross-subsidisation and is intended to aid new entrants in assuring them that they are competing on a fair and equitable basis.

29	Undue Preference & Unfair Discrimination	This condition requires the Licensee to treat all classes of customers in a similar manner and provide them with similar terms and conditions.
30	Linked Sales	This condition prevents the Licensee from 'bundling' services or products so that a user or new entrant must purchase products or services which it does not require.
31	Price Regulated Services	This condition requires the Licensee to publish details of new services or prices, discounts on services or special offers and submit information relating to the proposal to the Director General. The purpose of this is to ensure that any such changes/introductions are compliant with the requirement to be transparent, non-discriminatory and cost-justified.
<b>Part V</b>		
32	Fair Competition	Requires all licensees to behave in a fair way and not engage in anti-competitive practices.
33	Misuse of data	Requires the licensee to handle information received in a manner that does not benefit it or any associated companies or in a manner that anti-competitive towards other operators.

**Draft Pro forma  
Fixed Telecommunications Licence**



**Draft Pro forma  
Mobile Telecommunications Licence**