



Office of Utility Regulation

Guernsey Telecoms
Reference Offer for Interconnection
and Access

Report on Invitation to Comment

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Office of Utility Regulation
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1. Introduction

In December, 2001, the Director General of the Office of Utility Regulation (“the Director General”) published an invitation to comment on the “GT Reference Offer for Interconnection and Access”, Document OUR 01/24. That paper drew attention to the draft Reference Offer (“RO”) published by GT on its website, highlighted certain key areas which, in the Director General’s opinion, merited special consideration and invited interested parties to submit comments to the Director General on these or any other aspects of the document.

1.1. Purpose of This Report

This Report forms part of a process to develop a Reference Offer for Interconnection and Access products in Guernsey that are appropriate to the Guernsey market, meet the needs of new entrants into the market and correspond insofar as possible with international best practice. The main purpose of this document is to summarise and respond to the comments received on GT’s Draft RO.

The Director General will combine these comments with those generated by her office to give full and comprehensive guidance to GT as to the changes that may be necessary to the draft RO. GT will be required to make such changes within a specified time frame. The RO will be published by GT once the required changes have been made to the satisfaction of the Director General.

1.2. Structure of This Report

This report is in five sections as follows:

- Section 1 – Introduction to the report
- Section 2 – Background to the Report
- Section 3 – Summary of respondents’ feed-back and the Director General’s views on the matters raised
- Section 4 - Interconnection Tariffs
- Section 5 – Conclusions and Next Steps

The Director General wishes to thank those who have responded to this invitation to comment for their contributions. With the exception of the responses marked as confidential, written comments are available for inspection at the OUR’s office.

2. Background

Section 10 of the Telecommunications (Bailiwick of Guernsey) Law, 2001 (“the Telecoms Law”) sets out the Director General’s powers with regard to interconnection and describes the requirements that the Director General may impose with regard to interconnection on any licensee whom she determines has a dominant position in a relevant market.

The Director General has already determined, as set out in OUR Document 01/14¹, that Guernsey Telecoms has a dominant position both in the fixed network and services telecommunications market and in the mobile network and services market.

The requirements that the Director General may apply to GT include the following;

- (a) A requirement to make its procedures for the provision of interconnection and access publicly available on a non-discriminatory basis in a manner that is to the reasonable satisfaction of the Director General;
- (b) A requirement to offer a standard interconnection and access agreement (referred to as the “Reference Offer”) which is available under non-discriminatory terms, conditions and charges, and on a non-discriminatory basis, no less favourable than that offered to -
 - (i) any of GT’s own services; or
 - (ii) any associated company of GT’s or services of such a company;
- (c) A requirement to provide interconnection or access on terms, conditions and charges that are transparent and cost-oriented having regard to the need to promote efficiency and sustainable competition and maximise consumer benefits;
- (d) A requirement to provide interconnection or access at any technically feasible point in its telecommunications network; and
- (e) A requirement to provide interconnection or access in a manner that is sufficiently unbundled so that the person requesting interconnection or access does not pay for telecommunications network components or telecommunications services that he does not require.

In addition, the Telecoms Law makes provision for the Director General to direct changes to the standard interconnection and access offering and to require GT to justify its costs or charges for the provision of interconnection services.

GT has been working on developing the interconnection regime over the past number of months and submitted a draft RO for approval to the Director General. GT also published the draft RO submitted to the Director General on its website to facilitate those wishing to comment on the draft RO and the Director General appreciates GT’s open approach to this consultative process.

¹ Decisions under the Telecommunications (Bailiwick of Guernsey) Law, 2001; Decision Notice and Report on the Consultation

3. Reference Offer – Key Features

The GT RO is comprised of the following documents;

- RO Legal Framework;
- Service Descriptions;
- Operations & Maintenance (O&M) Manual;
- Technical Manual;
- Parameter Schedule;
- Service Schedule;
- Tariff Schedule; and
- Definitions.

The Director General invited interested parties to comment not only on the specific issues set out in document OUR 01/24, but also on any other aspects of the RO. This report highlights the principal areas where respondents believed there is need for further amendments to the draft RO to enable Other Licensed Operators (“OLOs”) avail of interconnection services from GT to facilitate their entry to the telecoms market in the Bailiwick.

Two organisations responded to the invitation to comment, as listed below:

- Guernsey Telecoms Limited; and
- Newtel (Guernsey) Ltd.

A number of comments were principally of a drafting nature and shall be considered further in the detailed finalisation of the text of the RO. The more substantive comments are considered below.

3.1. Areas of Special Interest

(a) Legal Framework

The Director General is anxious to ensure that the legal basis for interconnection balances the rights and entitlements of both parties, and reflects accurately the regulatory obligations of GT as set out in Section 10 of the Telecoms Law. She sought detailed comments and suggestions on this part of the RO which may assist further in achieving this aim.

Views of Respondents

One respondent felt that this section provides a reasonable framework as it follows established practice. However in relation to Clause 4, it felt one problem that must be avoided is the potential for GT to delay responding to a new service request from an OLO, particularly where the OLO may wish to offer GT’s customers something that GT doesn’t currently offer itself. GT must not be allowed to delay the new interconnect service while it develops its own competing retail service.

The respondent sought clarification on Clause 15 in relation to the handling of numbering allocations within the Bailiwick. In relation to Clause 20 the respondent queried whether this clause should be strengthened to ensure that Directory Information given for database purposes is not used for 'commercial gain' by GT (or an OLO). It also queried whether GT is obliged to supply phone books to OLO customers.

Director's Position

The Director has noted the comments on this part of the RO. The GT RO is comprised of a number of interrelated documents. The provisioning times for the delivery of new services are addressed in the O&M Manual which is an operational document. The final structure of the RO, including the relationship between the parts of the RO is yet to be finalised. For example some parts of the RO will be legally binding whereas other operational parts may be considered to be "living documents" which will be amended over time due to the development of interconnection agreements and needs of both new entrants and GT. The first concern raised by the respondent will be considered in that context.

Notwithstanding this, under the terms and conditions of its licence, GT is required to act in a non-discriminatory manner and in particular not to discriminate unfairly between new entrants and its own downstream arm. Failure to comply with this condition would leave the company open to regulatory action under the licence. Furthermore, discriminatory action on the part of GT in relation to the provisioning of interconnection services could constitute a breach of its interconnect agreement with an interconnecting OLO. As such it could be subject to direct action by the affected party as a breach of contract either independent of or in addition to regulatory intervention by OUR.

The allocation of numbers to GT and to OLOs is not a matter appropriate to the GT RO and will be addressed through separate procedures. OUR is currently in discussions with OFTEL, the UK regulator which administers the UK national numbering scheme from which current GT numbers are allocated, on how applications by licensees for numbers will be administered going forward. This matter must be addressed in collaboration with OFTEL as it is a cross-jurisdictional matter. OUR will communicate those arrangements to licensees once they have been finalised with the UK authorities. However, GT will not be responsible for any aspect of the allocation of numbers for the Bailiwick.

The requirements in relation to Directory Information currently contained in the draft RO, coupled with GT's licence obligations, are in the opinion of the Director General, sufficient to prevent the potential abuse highlighted by the respondent. With regard to the provision of phone books, GT's Universal Service Obligation places a requirement to ensure that all users are provided with a telephone directory and again, this is not a matter appropriate to the RO.

(b) Service Descriptions

The Services Description document outlines the range and nature of the interconnection services GT is proposing to make available in the RO. The Director General sought comments on the range of services available, the additional services, if any, respondents believe should be offered and on the options for interconnection being offered by GT.

Views of Respondents

One respondent while acknowledging that at this time, the range of services offered seems to meet its requirements, believes that another ‘end of span interconnect’ option should be available which would involve GT interconnecting at the OLO premises over a GT provided cable run from the GT Interconnect Switch Location (“ISL”) to an OLO ISL. This could be a means of speeding competitive entry and avoid the need for the OLO to dig up roads to lay cables.

Director General’s Position

The Director General has noted the comments on this aspect of the RO. She recognises the benefits this additional form of interconnection could provide and will request that GT expands the RO to include this offering.

(c) O&M Manual and Technical Plan

The Director General believes these two documents to be intrinsically linked and the level of clarity and understanding that is had by the different parties on these matters should greatly reduce or remove difficulties that might otherwise be experienced by operators establishing interconnection with GT.

Views of Respondents

While there was general support for these documents, the area of fault clearance has been highlighted as being deficient. One respondent believes the offered timescales for fault clearance, particularly for the In-Span Interconnects (ISIs), to be excessive and unacceptable although it has noted that GT is due to improve these before the formal launch of interconnection services. The respondent believes the response times for the provisioning of services by GT should be directly in line with GT’s own internal commitments to its business customers.

In the Technical Manual it was noted that GT seems to have ruled out any form of diverse routing. The respondent considered that one plus one in the same cable or even the same trench, is not sufficient when the whole business operation may depend on that link. Separate physical routes are required.

Director General’s Position

The Director General welcomes the comments offered on this important aspect of the RO. The response time to handle complaints generally is a matter of concern to the Director General and the OUR will request that GT improves its commitments on fault clearance in the final RO. On the subject of diverse routing of interconnection links, the DG will consider the submission carefully before finalising her Direction to GT with a view to ensuring that the diversity provided by GT is appropriate and non-discriminatory.

(d) Parameter & Service Schedule

The Director General noted in the invitation to comment that she believes these to be key areas of importance. She indicated that she believes that GT should provide response times that are at least equal to the response times it provides to its own downstream arms but sought the views of interested parties on this matter.

Views of Respondents

One respondent proposed the addition of end of span interconnect at the OLO premises over a GT provided cable run from the GT ISL to an OLO ISL as a further form of interconnection that it would wish to see made available. It also supports the Director General's belief that GT should provide response times at least equal to the response times that it provides to its own downstream arms.

Director General's Position

The Director's views on these points have been explained in under items (a) and (b) above.

(e) Tariff Schedule

The critical importance of interconnection charges to OLOs was highlighted in the invitation to comment. The Director General, with the assistance of Logica Consulting, has undertaken a study of GT's cost accounting systems and has communicated her requirements in this regard to GT to enable it to make changes to its systems to meet the regulatory requirements of this Office. She is also preparing detailed guidelines on accounting separation that will be published in March 2002 and will provide a framework for the development of costing information going forward. She has also requested GT to submit and justify its proposed interconnection tariffs in order that the Director General can confirm that they are in compliance with GT's regulatory obligation in this area.

Views of Respondents

While one respondent felt it could offer no real comment on this section as no rates are available, it expressed a view that rates should follow the UK principles and that it would anticipate an arrangement whereby each party pays its own costs, except by mutually agreed alternative arrangements. It further believes that GT should be required to publish the detailed tariffs four months in advance of the date for competitive entry.

Director General's Position

The Director General is continuing to work with GT to ensure that interconnection tariffs are set at the earliest possible date. Further details are set out in Section 4.

Decision 3.1

<p>The Director General shall direct GT to make changes to the draft RO to address the deficiencies identified in this report and such other changes as the Director General believes are required. GT will be required to submit a revised draft of the RO, having taken account of the changes the Director General directs it to make.</p>

4. Interconnection Tariffs

As stated above the charges that GT will apply for its interconnection services will be a crucial element in determining how effective competition will be in the telecoms market in the Bailiwick. This Office has been engaged with GT for some time now various matters associated with the development of proper accounting systems to enable it set tariffs for all services that are in line with its legal obligations.

The Director General in December 2001 informed GT of certain amendments required to its costing systems to enable them to meet the regulatory requirements of this Office and has discussed further with it how this should be implemented and the timeframes within which it is required. Detailed guidelines on accounting separation are also in preparation and will be published in March 2002. Separately, GT had been asked to submit and justify its proposals for interconnection charges contained in the RO by 21st January, 2002. GT has been unable to comply with this requirement.

Therefore the Director General now proposes to set interim interconnect rates, using such information as available to her, including but not limited to benchmarking data, these rates will be published by the OUR in mid April 2002. The rates determined by this Office shall remain in force until 1st December 2002. GT has been asked to submit fully justified proposals for cost oriented interconnection rates by 1st July, 2002. Any such proposals shall be considered and if necessary or appropriate, rates will be revised with effect from 1st December 2002.

5. Conclusion & Next Steps

The Director General will direct GT to make certain changes to the draft RO published in December and to re-submit the document to her for approval prior to it being made available to the market generally by April 2002 at the latest. As there is potentially a long lead time to concluding interconnect agreements, the Director General expects GT to enter into discussions with parties wishing to interconnect with it, prior to the award of licenses to OLOs.

As stated above, the Director General is pursuing the development of interconnection charges separately with a view to having such information available to the market by mid April 2002 for the period up to 1st December 2002. She has also requested GT to submit its proposals for interconnection rates by 1st July 2002 and to confirm that they are in compliance with its licence obligations with regard to transparency, cost-orientation and that they are non-discriminatory. GT's submission will be reviewed and if there is a need for changes in the published interconnection charges, the Director General proposes that any approved changes shall be published at the end of October 2002 to take effect from 1st December 2002.

/ENDS