



Office of Utility Regulation

Mobile Telecommunications Licence Terms and Conditions

Consultation Paper

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Office of Utility Regulation
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1. Introduction

In December, 2001, the Director General of Utility Regulation (“the Director General”) published a consultation paper, entitled “Mobile Telephony Licensing in Guernsey”¹, which considered the licensing of mobile networks and services and the scope for competition within the Bailiwick. The report² on the consultation was issued in April 2002 and put forward the Director General’s decisions on:

- the availability of spectrum for mobile telephony in the Bailiwick of Guernsey;
- options for introducing competition in both network provision and services within the Guernsey telecommunications market; and
- how licences for the spectrum would be allocated.

Consequently this consultation paper marks the next stage in the opening up of the sector to competition by focusing on the licence obligations and conditions for the new 2G and 3G licensees.

A key element of the regulatory framework is the licensing regime that will apply to licensees in Guernsey’s mobile telephony market. The licencing regime that is being developed by the Director General is intended to foster competition between mobile operators and service providers as competition provides the greatest incentive to innovate and provide high quality, value for money services as operators strive to meet customer expectations.

By the nature of the issues considered in this consultation paper there may be implications for Guernsey Telecoms’ (GT’s) existing conditions. Those issues which may affect GT’s existing mobile licence are highlighted in the text and any changes to GT’s Licence that are necessary will be addressed later in 2002.

Interested parties are invited to comment on the Director General’s proposals set out in this paper and help to inform the shape of the new regulatory regime for Guernsey. In the light of the results of the consultation and further research the Director General will prepare final core licence conditions before the beginning of the competitive process for new entrants. Further licence conditions may be prepared following the consideration of applications for the licences.

2. Background

The Director General has been developing a licensing regime for telecommunications services and networks in preparation for a fully liberalised telecommunications sector in accordance with legislation approved by the States in September 2001³ and States

¹ Document No: OUR 01/25 December 2001, Mobile Telephony Licensing in Guernsey

² Document No: OUR 02/14 April 2002 Mobile Telephony Licensing in Guernsey –Report on the Consultation and Decision Notice.

³ The Regulation (Bailiwick of Guernsey) Law, 2001 and the Telecommunications (Bailiwick of Guernsey) Law, 2001

Directions to the Director General in relation to universal service and the extent of competition in the telecommunications sector⁴.

Together, the legislation and States Directions provide for the manner in which telecommunications market in Guernsey is to be opened up to competition and empower the Director General to draw up and issue licences to enable licensed operators to provide telecommunications networks and telecommunications services in Guernsey. The Director General has already decided that competition in the mobile telecoms market will be possible from 1st April 2003.

Following an earlier consultation process, licence terms and conditions have already been developed for GT's mobile business and GT has now been licensed with effect from 1st October 2001 in line with the States Directions. The details of the licence terms and conditions are set out in OUR Document 01/19 entitled "Mobile Telecommunications Licence Conditions". It should be noted that GT also provides fixed telecommunications services over its fixed network and that element of its business has been licensed separately – the fixed licence terms and conditions are set out in OUR Document 01/18.

This consultation therefore is concerned with the licence terms and conditions – and consequent rights and entitlements - that will apply to the mobile telephony licences which will come into force from 1 April 2003. The Director General has decided that two spectrum packages will be made available; one comprising access to 2G and 3G spectrum and the other just 3G spectrum. This document consults on issues and principles to be applied to the new mobile telecommunications network licences and seeks comments from interested parties.

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.

3. Structure of the Paper

The consultation paper is structured as follows:

- Section 4 details the consultation procedure and timetable;
- Section 5 provides an overview of the proposed structure of the licences and purpose of the conditions, along with a broad outline of licensee's rights and entitlements under the licence;
- Section 6 provides more detail on certain specific conditions on which comments are invited; and
- Section 7 presents the conclusions and next steps.

⁴ Billet d'Etat No VI, 2001

Respondents are specifically requested to respond to the questions set out in sections 5 and 6.

4. Consultation Procedure and Timetable

The consultation period will run from Monday 20 May to Friday 14 June, 2002. Written comments should be submitted before 5.00pm on 14 June, 2002 to:

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

Email: info@regutil.gg

All comments should be clearly marked “Comments on Mobile Telecommunications Licence Terms and 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 OUR 01/01 – “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 during the third quarter of 2002.

5. Proposed Licence Structure

5.1. Modular Licence Text

In preparing the licence terms and conditions for the fixed telecommunications sector, the Director General has taken the position that, in the interest of openness and transparency, similar terms and conditions should apply to all licenses where possible, regardless of whether they are service based competitors or network based competitors⁵. The Director General proposes to adopt a similar approach with respect to the drafting of licence terms and conditions for the mobile telecommunications sector i.e. similar terms and conditions should apply to all licenses where possible. Therefore the structure of the new mobile telephony licences that will be issued to new licensees will be broadly similar to GT’s current mobile licence⁶.

⁵ Document No: OUR 01/13 Telecommunication Licence Conditions – Decision Notice and Report on the Consultation

⁶ Document No OUR 01/19 Mobile Telecommunications Licence Conditions

In drafting licence terms and conditions, the Director General however intends to take into account the rapidly changing nature of the telecommunications sector and the need to balance the regulatory obligations of new entrants against the need for a regime that encourages sustainable competition to the incumbent operator (GT). In developing the licence terms it is therefore important that they contain sufficient flexibility to cope with the changes that will develop over the period of the licence. The Licence terms and conditions will therefore set out the high level obligations that licensees will be required to comply with and in many cases, more specific detail will be developed by the OUR in consultation with the market as appropriate.

Furthermore in the light of the decision to run a comparative selection competition for the award of the limited number of mobile telecommunication licences available, the Director General also recognises that it may be necessary to tailor individual licences to reflect the successful applicant's submissions and proposals. She therefore reserves the right to insert specific licence conditions in individual licences to reflect this.

It is the Director General's view that this approach will provide the flexibility to ensure that the needs of the market within the Bailiwick can be met by tailoring the regulatory regime to meet the demands of a small island economy, whilst at the same time providing sufficient certainty and clarity as to the regulatory rules so as to encourage entry into the market by alternative operators.

The Director General proposes to issue two mobile telecommunications licences for the applicant awarded Licence Package A (i.e. a 2G mobile telecommunications licence and a 3G mobile telecommunications licence) and one mobile telecommunication licence for the applicant awarded Licence Package B (i.e. a 3G mobile telecommunications licence). Separate licences for the 2G and 3G spectrum in Licence Package A may be the most appropriate licencing approach due to the different rights and obligations relating to the two spectrum allocations. In addition this could assist in demonstrating transparency between the new 2G licence and GT's existing 2G licence and between the two new 3G licences to be issued as part of Packages A and B.

5.2. Rights, Entitlements and Obligations of Licensees

A key requirement of any potential entrant and applicant to the comparative selection process is an understanding of their rights and entitlements under the licence and the obligations that they must meet. All holders of a mobile telecommunications licence will have a basic set of rights and the base set of conditions in the licences will be the same as those currently contained in the GT mobile licence (see document OUR01/19 for full text of GT licence conditions).

Certain other conditions which will be contained in all licences will only be activated where a specific direction or finding is made by the Director General. For example there are a range of conditions that will only apply if a licensee is found to be dominant in a relevant market. Before these conditions would apply to any licensee, the Director General would carry out an investigation and follow a statutory consultation process.

The tables below summarise the proposed conditions that will be included in the mobile licences⁷. The tables include the purpose of each of the proposed conditions. Section 6 of the Consultation Paper contains more detail on key conditions.

Part I Licence Conditions: Establishment and Enforcement

Condition No.	Heading	Purpose
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 an annual licence 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.

⁷ These conditions follow those included in GT's existing mobile telecommunications licence as set out in OUR Document No 01/19 Mobile Telecommunications Licence Conditions.

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 Network	Requires the licensee to take all reasonable steps to ensure integrity of the network.
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 terms of the licences are consulted upon specifically in Section 6.1.

Part II Licence Conditions: Public Service Conditions

Condition No.	Heading	Purpose
12	Provision of Service to the Public	Requires the licensee to provide services to the public generally and without discrimination. The coverage commitments given in an applicant's submission will be incorporated as licence commitments. Consulted upon specifically in Section 6.2.
13	Public Emergency Call Services	Requires the licensee to provide access to emergency services 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 relevant information for any purpose other than the Directory Information Service, and comply with data protection legislation.
15	Development of Network and Services	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.
16	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 and publish a statement on its minimum service levels for customers.

Part III Licence Conditions: General Conditions Relating to Provision of Mobile Telecommunications

17	Numbering	Requires the licensee to manage its numbering allocation in an appropriate manner. It is further prohibited from charging customers for any number allocated unless authorised by the Director General. The Director General has considered whether there is sufficient need for full mobile number portability with reciprocal arrangements across licensees' networks. This issue is consulted upon in more detail in Section 6.3.
18	Radio Frequency Spectrum	This condition is designed to ensure that the Licensee operates any radio based infrastructure 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.
19	Access to Land	Provides that if the Director General applies the Code as set out in Schedule 1 of the Telecommunications Law, the licensee may exercise the rights set out in that code subject to compliance with other relevant laws and codes within the Bailiwick, e.g. planning laws.
20	Access to Facilities	Access to the network and services 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 licensee must, if so directed, provide such access. This condition is described and consulted upon in more detail in Section 6.4.
21	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.
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Part IV Licence Conditions: Conditions Applicable to Dominant Operators

Condition No.	Heading	Purpose
22	Application of Conditions	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.
23	Interconnection	This condition is critical. Interconnection is a reciprocal service which allows customers on one network to make calls to and receive calls from customers on other networks. The Licensee's charges for interconnection services must be non-discriminatory and cost-oriented. This condition can apply to any operator with a dominant position in the relevant market.
24	Separate Accounts	To aid the Director General in ensuring compliance with other conditions, it is necessary for dominant operators to be able to demonstrate fair pricing practices, including inter alia the absence of unfair or excessive pricing, below cost or predatory pricing or unfair cross subsidisation. Keeping separate accounts for different activities is essential to calculate this.
25	Cross Subsidisation	This condition prohibits unfair cross-subsidisation and is intended to ensure that licensees without dominance can compete on a fair and equitable basis.
26	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.
27	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.
28	National Roaming	This proposed condition is consulted upon in Section 6.2 and has implications primarily for GT's existing mobile telecommunications licence in that

		it would need modification.
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Part V Licence Conditions: Fair Competition

Condition No.	Heading	Purpose
29	Fair Competition	Requires all licensees to behave in a fair way and not engage in anti-competitive practices.
30	Misuse of data	Requires the licensee to handle information received in a manner that does not unduly benefit it or any associated companies or in a manner that is anti-competitive towards other operators.

Part VI of the licence will contain specific licence conditions relevant to the applicants’ submissions and proposals during the comparative selection process.

Q5.1 Do respondents have any comments on the scope and purpose of the proposed licence conditions in Parts I to V of the Licence?

6. Specific Terms and Conditions

This section describes in detail, some of the more complex terms and conditions that will be included in the new mobile licences which would implement the Director General’s decisions given in OUR Document No 02/14.

6.1. Licence Duration

In European jurisdictions 3G licences have typically been awarded for periods of 15 to 20 years with the option to seek licence renewals for further periods of time. Similarly the term of GT’s existing 2G licence is for a period of 15 years from the licence commencement date i.e 1 October 2001. At any time after the eleventh anniversary but prior to the twelfth anniversary, GT may serve notice on the Director General requesting an extension of the licence.

Therefore the Director General proposes to offer the 2G mobile telecommunications licence within Licence Package A for 15 years from the Licence Commencement Date.

Given the time and investment needed to rollout a 3G network, together with the limited size of the market within the Bailiwick and the need for certainty, the Director General proposes that the 3G licences within Packages A and B should be for a period of 20 years from the licence commencement dates. In all instances the licensees could serve notice on the DG requesting an extension to the licence.

Q6.1 Do respondents agree with the proposed licence durations? If not, why not and what alternatives would they propose?

6.2. National Roaming and Network Roll out

National roaming agreements between existing network operators and new entrants provide an opportunity for a new entrants’ customers to gain access to 2G

telecommunication services⁸ and bearer⁹ services as defined in the relevant European Telecommunications Standards Institute (ETSI) and GSM Standards. This capability would enable new entrants to offer voice, facsimile and short message as provided by the incumbent operator and also provide its own value added services by having access to the necessary bearer capability over the incumbent's 2G network in advance of the new entrant's network roll out.

Roaming should also allow access to bearer capacity provided by General Packet Radio Service (GPRS) if the existing operator's base stations use this technology and are deployed in its network. This would enable the new entrant to compete on a level playing field in terms of the potential to innovate and offer new value added services to consumers.

The Director General consulted on this issue in document OUR 01/25 and following consideration of the responses, published her decision in OUR Document No 02/14 that the successful applicants awarded Packages A and B would acquire mandatory roaming rights on the incumbent 2G operator's network. A summary of the Director General's decision regarding national roaming rights is shown in Table 1 below¹⁰.

Table 1: Spectrum packages and roaming

	2G Network	3G Network
Licensee awarded Package A (2G & 3G)	Mandated three year roaming on GT's existing 2G network. 2G Network to be rolled out within three years, if not then telecoms licence may be rescinded and 2G spectrum licence returned to RA.	3G Network to be rolled out within five years, if not then 3G spectrum and telecoms licence may be revoked.
Licensee awarded Package B (3G)	Licensee would not have a 2G Network but have mandated roaming on GT's existing 2G network for three years and then subject to commercial negotiation if two 2G operators within the market. Should there be only one 2G network operator after three years then mandated roaming could continue.	3G Network to be rolled out within four years, if not then 3G spectrum and telecoms licence may be revoked.

Table 2 summarises population coverage obligations with respect to 3G licences in a selection of European jurisdictions. These EU Member States have populations ranging from 5 million (Denmark) to 83 million (Germany) covering geographic areas of between

⁸ Telecommunication services which provide the user with the necessary capacities, including terminal equipment functions, to communicate with any other users and covers speech, short message service and facsimile services.

⁹ Bearer services are those telecommunication services which give the user the capacity needed to transmit appropriate signals between certain access points.

¹⁰ These decisions will require modifications to GT's existing mobile telecommunications licence which will be consulted upon separately later in 2002.

30,000 km² (Belgium) and 547,000 km² (France). To put Guernsey in context, the Bailiwick has a population of around 62,101¹¹ and covers an area of 78 km².

Table 2: 3G Coverage Obligations
Population coverage obligations after the number of years since licence award

	1	2	3	4	5	6	7	8	9	10
Austria			25%		50%					
Belgium			30%	40%	50%	85%				
Denmark			30%				80%			
France		58% ¹			94% ¹			98% ¹		
Germany			25%		50%					
Italy				2			3			
Netherlands							4			
Portugal	20%		40%		60%					
Spain	5									
Sweden			100%							
Switzerland	20%		50%							
UK							80%			

Notes:

- 1 France figures relate to Orange voice service, data 7% to 58% within two years and 17% to 98% after eight years.
- 2 Italy: regional capitals.
- 3 Italy: main provincial towns.
- 4 Netherlands: cities with more than 25,000 inhabitants.
- 5 Spain: cities with more than 250,000 inhabitants. After that operators must meet individual coverage obligations proposed in their bids.

Source: Cullen International

2G rollout targets have been much shorter than for 3G in general. In Ireland for example Meteor and Eircell had 80% population coverage within four years and 99% population coverage within six years respectively.

The Director General has considered the roll out times imposed in other jurisdictions, taken into account the relative size of the Bailiwick, had regard to the objective, set out in the Regulation Law to introduce, maintain and promote sustainable competition, and is minded to require the licensee awarded Package A to roll out its 2G network to 100% of the Bailiwick's population within three years and its 3G network to 80% of the population within five years. Similarly the Director General is minded to require the licensee awarded Package B to roll out its 3G network to 80% of the Bailiwick's population within four years.

Other than these targets, the Director General does not intend to include any additional network roll out obligations in the generic mobile licences. This does not preclude any commitments that an applicant might wish to make in the comparative selection process

¹¹ 2001 Bailiwick of Guernsey Census, 29 April 2001 www.gov.gg

to an earlier roll out and the inclusion of such commitments in any relevant individual licence.

Q6.2. Do respondents agree with this proposed approach towards national roaming and network rollout requirements? If not, why, and what alternative would they propose?

Having decided that roaming is to be mandated on mobile networks, the basis on which roaming will be charged must be considered. The charging basis for roaming on networks is a key determinant in the level of tariffs which the new entrant can offer and consequently for increased price competition in the mobile market. There are a number of options as to the basis on which such roaming may be charged which include

- retail minus prices;
- cost plus return on capital (similar to interconnection pricing); or
- commercial negotiation.

Commercial negotiation is the preferred option from a regulatory perspective and presupposes that both parties can see mutual advantage in the transaction. The OUR will not specify the structure of charging which might emerge from a commercial roaming agreement, but would become involved only when a commercial agreement could not be realised.

The advantages of using retail minus include speed of implementation as it does not rely on the detailed capturing and measurement of costing information. Speed of introduction of competition in turn can benefit consumers. On the other hand, the use of retail minus passes the tariff structure of existing network operators onto the new entrants, potentially limiting the scope for innovative packaging and billing options.

Cost oriented pricing would take longer to implement but has the advantage firstly of linking the prices that network operators receive with their costs plus a reasonable return on capital, and secondly of allowing new operators greater freedom in how they structure their own tariffs and service offerings, thus increasing the scope for pricing innovation.

On balance therefore given that roaming is an interim solution while a new entrant rolls out its own network, where agreement cannot be reached between the parties, the OUR proposes to adopt a retail minus approach to setting roaming charges. It is important to emphasise that the OUR is not proposing to specify the structure which might emerge from commercial negotiations should agreement be reached. The proposed retail minus approach is designed to give new entrants certainty that if operators cannot agree on terms then they would be able to obtain roaming at a level which fosters competition within the market.

In determining the roaming charge, the retail price will be defined as the average effective revenue from providing, to all customers, those 2G telecommunication and

bearer services which are available for roaming¹² less costs saved by the incumbent operator as he is serving another operator rather than a retail customer. Due to the complexity of mobile tariffs, a pragmatic workable solution would be to base the roaming charge on a weighted average of the prices charged for the roamed services when supplied to final customers.

Q6.3. Do respondents agree with the Director General’s proposal to use “retail minus” in determining roaming charges where necessary? If not, why not and what alternative would the respondent propose and why? Worked examples would be helpful if alternative approaches are proposed.

6.3. Number Portability

Number portability means that customers can switch networks without changing their mobile number. The absence of mobile number portability represents a switching cost for consumers which could inhibit the development of competition within the mobile market. Mobile number portability can result in cost savings to the subscriber and potential cost savings to those who call the subscriber.

As mobile penetration increases and competition emerges in the mobile sector the lack of number portability could lead to an increasingly inefficient use of numbering capacity. Whilst EU law does not yet mandate portability of mobile numbers, the Commission’s draft Directive on Universal Service and Users’ Rights proposes to mandate mobile number portability and adoption of this proposal would therefore extend the obligation of number portability to mobile operators¹³.

Licensing bodies in the EU Member States have adopted a number of responses to the issue of mobile number portability, ranging from no current requirement within one country, active consultation of the issue in another and actual implementation of the requirement in the remaining countries although the stage of implementation varies markedly within these countries¹⁴.

Whilst international best practice is moving towards requiring mobile telecommunication network operators and MVNOs to implement mobile number portability these decisions have been taken after detailed economic cost benefit analyses¹⁵. These studies have

¹² Including revenues from connections, rentals and calls expressed in pence per minute, for the quarter in question.

¹³ COM (2000) 392 12 July 2000, Proposal for a Directive of the European Parliament and of the Council on Universal Service and User’s rights relating to Electronic Communications Networks and Services

¹⁴ In Denmark, for example, Executive Order No 1044 of November 24, 2000 required full number portability from 1 July 2001. In France a similar requirement with a deadline for 1 January 2001 was missed with an industry working group attempting to find ways of implementing mobile number portability. Similarly in August 2001 the RegTP in Germany postponed the deadline by nine months to October 31 2002

¹⁵ E.g. Oftel: 7/97 Economic Evaluation of Number Portability in UK Mobile Telephony Market; ODTR: Mobile Numbering and Mobile Number Portability in Ireland - Consultation Paper 00/86 & Ovum Report to ODTR JCD50

typically shown high start up costs (e.g. c£9m in current prices in the UK) with additional annual operating costs. However the size of the markets in these other jurisdictions have been large enough for the introduction of number portability to provide benefits which exceed the costs and generate positive Net Present Values. However due to the size of the market within the Bailiwick and the current state of development of the market it is possible that the discounted costs may not exceed the benefits. In any event, without prejudice to any future decision on number portability, the Director General believes that a more thorough examination of the costs and benefits would have to be considered before any decision to impose mobile number portability in Guernsey could be made. Furthermore all options would have to be explored in a consultation process that involved the industry, so that any solution would have full industry commitment.

Therefore the Director General proposes not to require immediate mobile number portability on mobile telecommunications licensees within the Bailiwick. The Director General proposes to monitor and review this requirement over time.

Q6.4. Do respondents agree with the Director General's proposed decision not to require immediate mobile number portability on all mobile telecommunication licensees? If not, why not?

6.4. Facility Sharing

There may be significant economic reasons for the shared utilisation of existing or new network infrastructure. The sharing of infrastructure between network operators may help to reduce infrastructure costs and accelerate network deployment, thereby fostering the introduction of affordable services earlier than may otherwise have been the case. Conversely infrastructure sharing for an indefinite period could conflict with one of the primary regulatory goals, namely the introduction of effective competition between network operators. Therefore it is important to make a distinction between the sharing of facilities (such as sites and masts) and the sharing of network infrastructure (e.g. radio transmission). The sharing of network infrastructure has been discussed in section 6.2 above and this section of the consultation paper considers facility sharing.

In some European countries the sharing of facilities such as masts and sites among mobile operators is common practice. In Austria mast owners must permit shared use by telecoms service licensees if technically feasible, whilst in Belgium mast sharing is strongly encouraged by the national regulatory authority and in Denmark the sharing of masts is explicitly regulated in the Mast Sharing Act¹⁶. Danish licensees are also allowed to share transmission equipment between core network and Radio Access Network and towers, buildings and monitoring equipment. In Finland for example whilst there have been no requests by operators to share 3G infrastructures, there is an obligation to share masts and sites for environmental protection policy objectives.

These arrangements are normally made on a commercial basis. Site sharing contributes to reducing redundant costs in site acquisition, site development and mast construction. It also avoids any competition issues due to lack of availability of optimal site locations.

¹⁶ Law No 212 of March 30, 1999.

Of particular relevance to Guernsey is that site and mast sharing may contribute towards minimising the overall number of masts in the Bailiwick and address the limited number of suitable location for masts within the Bailiwick. Therefore the Director General is currently minded to include within the new licences a condition requiring mast sharing where it is deemed necessary for environmental purposes. Mast sharing would therefore become mandatory on a commercial basis once a need for the sharing of the facility had been demonstrated. This proposal would require modifying GT's existing mobile licence accordingly. At this stage the Director General is also seeking views as to whether there should be sharing of any other facilities.

Q6.5 Do respondents support the Director General's proposal to require mast sharing where it is deemed necessary for environmental purposes? If not, why not?

Q6.6 Do respondents believe that there should be any other sharing of facilities? If so, which facilities and why?

7. Conclusion

In conclusion, respondents are requested to comment on the matters set out in sections 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. Comments on any additional conditions, which respondents believe should be included, are also welcome.

The Director General is currently preparing draft application procedures for applicants and shall publish these in the near future together with the licence texts following this consultation and further research. As stated previously, further licence conditions may be developed following consideration of the applications received.

/ENDS