



Office of Utility Regulation

**Publication of C&W Guernsey's  
Regulatory Accounts**

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**Amendment to a Direction to Cable &  
Wireless Guernsey Limited**

**Document No: OUR 03/36**

**December 2003**

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

Cable & Wireless Guernsey (“C&WG”) is required to submit Regulatory Accounts to the OUR in accordance with condition 27 of its Fixed Telecoms Licence. In July 2003 the Director General issued a Direction<sup>1</sup> to C&WG requiring it, *inter alia*, to publish its 2002/03 Regulatory Accounts on its website by 31<sup>st</sup> October 2003 and to provide hard copies of its Regulatory Accounts on request thereafter.

In August 2003 the Director General consulted on the level of detailed information that should be published, compared with the full set of Regulatory Accounts that would be submitted to the OUR at the same time. Following consideration of responses to that consultation, and on the basis of the information available to her, the Director General issued a Direction<sup>2</sup> in October 2003 on the level of information that should be published in this and future years.

Following the publication of this Direction, the Director General received new information from C&WG that caused her to consider amending the Direction and changing some of the detailed information that should be published in this first set of audited Regulatory Accounts. In November 2003, the Director General published details of the information that had been received, her views on that information and invited comments on the proposal to amend the Direction.

## 2 Review of Comments and Decisions

This report summarises the comments received and the DG’s consideration of those comments.

Six representations were received following the invitation to comment, as listed below:

- Cable & Wireless Guernsey;
- Mr. Matthew Hale
- Mr. Chris Le Tissier, Consumer Group Telecoms Committee;
- Mr. John McQuaigue;
- Newtel (Guernsey) Ltd; and
- Mr. Stephen John.

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.

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<sup>1</sup> Document OUR 03/20 - Cable & Wireless Guernsey: Separated Accounts Notice of a Direction to Cable & Wireless Guernsey Limited in accordance with Section 27 of the Telecommunications (Bailiwick of Guernsey) Law, 2001 available at [www.regutil.gg](http://www.regutil.gg)

<sup>2</sup> Document OUR 03/29 - Publication of Cable & Wireless’s Regulatory Accounts: Notice of a Direction to Cable & Wireless Guernsey in accordance with Condition 27.1 of Cable & Wireless Guernsey’s Fixed Telecommunications Licence and section 5 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

### **3 Proposal to Amend the Direction**

In OUR 03/31 the Director General set out the detail of the representation she had received from C&WG following the publication of the Direction to the company on the level of information to be published by C&WG on 31<sup>st</sup> October 2003 and her consideration of that new information. She indicated that it is her view that the original Direction to C&WG should be amended for the reasons set out in that document and that the level detail on the Regulatory Accounts to be published should be that as was set out in Section 4.1 of OUR 03/31. However she wished to seek the views of interested parties on the new matters raised by C&W Guernsey with respect to OUR 03/29.

#### **Views of Respondents**

The majority of the respondents believed that the original direction (OUR 03/29) should not be amended. Four respondents believed that as this direction constituted best practice there is no convincing argument for amending the Direction but did not comment on the reasons set out in the consultation document for the proposed amendment.

Another respondent, while acknowledging the DG's reasons for the proposal to amend the direction, was concerned that a lack of certain essential information being in the public domain about key areas of activity (including exchange line rental and connection, local calls and local internet calls, internet and leased lines) would impact on C&WG's ability to demonstrate that there is no undue discrimination between the manner in which C&WG treats its own downstream businesses and competing OLOs. It argued that the OUR should either maintain its original decision or at a minimum require C&W Guernsey to provide to the OUR, on a confidential basis, the disaggregated information to enable the OUR undertake such analysis as may be necessary, in particular to ensure C&W Guernsey's compliance with its licence conditions.

C&W Guernsey supported the proposal to amend the Direction. However the company raised a number of points with regard to the content of OUR consultation paper 03/31. It believes that, given that as the Regulatory Accounts have been produced in accordance with the guidelines and have been audited, that only a very top-level review of the methodology is proportionate and appropriate. It also stated that it is the company's understanding that the publication of the Regulatory Accounts is intended to inform the OLOs so that they can make their own business decisions in light of the information available to them and the publication of the detailed reconciliation of the Regulatory Accounts to the Statutory Accounts would put in the public domain information that would otherwise remain confidential in accordance with the requirements of Guernsey Company Law. C&WG believes that the fact that the two different sets of accounts are seen to reconcile is of no practical use to the OLO, but is obviously of great import to the OUR and this reconciliation would continue to be provided to the Office.

It further expressed concern at the statement in the consultation document that the DG *'expects that the full level of detail will be published in future years as soon as the review has been carried out by the OUR'*. It is concerned that could be taken to mean that as soon as this Office has completed its review of the 2002/03 accounts C&WG would be required to publish the accounts at the disaggregated level. It also expressed

its view that its concerns relating to the publication of the disaggregated level of information on this occasion will remain for future years.

### **Position of the Director General**

The DG has noted the concerns of respondents with regard to the proposed amendment. She recognises that in considering this amendment, the level of information available publicly for 2002/3 will be less than what is considered best practice in other markets. In considering whether to amend the Direction, the DG is mindful that a combination of circumstances exists at this time in the Guernsey market that would possibly not exist in other markets or in the Guernsey telecoms market in future years. Further C&WG is still required to provide the OUR with the full disaggregated information required in the original decision.

The DG has noted C&W Guernsey's view that the publication of the reconciliation does put in the public domain information to a level above that required by Guernsey Company Law. However she notes that there are many different obligations imposed on C&WG by the Telecoms Law, some of which are as a result of it being the dominant telecoms operator in the Bailiwick. These requirements are no different to those impose on dominant operators in many other telecoms markets. The Company Law regime has different purposes to the Regulatory regime and a comparison with what is required under both is irrelevant.

The DG has not changed her position on what is the optimum level of information that should be available publicly. She set out her position and reasons for this in OUR 02/29. Her proposed amendment to the Direction set out in OUR 02/29 applies to the publication of the 2002/03 Regulatory Accounts only and is for the reasons set out in document OUR 03/31. C&WG will be required to publish its regulatory accounts for future years (i.e. the 2003/04 accounts onwards) at the level set out in OUR 02/29.

The OUR is now for the first time in a position to commence a full analysis of the Regulatory Accounts that C&W Guernsey has submitted and expert advisors are currently being engaged to assist with this task. It is expected that it will be a number of months before this assessment is concluded and the output from that review will help inform the DG's further consideration of the manner in which the accounts are produced and any changes that are necessary to their production by C&W Guernsey.

Therefore the Director General is confirming that she is amending the Direction set out in OUR 03/29 with regard to the level of information C&W Guernsey is required to publish with respect to its 2002/03 Regulatory Accounts only. Section 5 sets out the full text of the revised Direction to C&W Guernsey with regard to the publication of its 2002/03 Regulatory Accounts and future Regulatory Accounts.

## **4 Related Matters**

Following publication of the Regulatory Accounts on 31<sup>st</sup> October 2003 a number of compliance issues, mainly of a technical nature, were notified to C&W Guernsey. The company has agreed to rectify these matters and shall be republishing its Regulatory Accounts for 2002/03 on 15<sup>th</sup> December 2003 in full compliance with the requirements of the revised Direction. The DG would like to thank C&WG for its co-operation in this matter.

## 5 Direction

In accordance with Condition 27.1 of Cable & Wireless Guernsey Limited's Fixed Telecommunications Licence issued under the Telecommunications (Bailiwick of Guernsey) Law, 2001, the Director General, and Section 5 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 hereby Directs Cable & Wireless Guernsey Limited that the publication of its 2002/03 Regulatory Accounts will comprise making the following documents available on its website and making available on request:

- Audited Regulatory Accounts for:
  - Local Access Network (Profit and Loss Account & Statement of Mean Capital Employed);
  - Core Network Business (Profit and Loss Account & Statement of Mean Capital Employed)
    - Statement of Costs of Network Services – usage factors (excluding disaggregated retail products);
    - Statement of Costs of Network Services – average cost per minute (excluding disaggregated retail products);
    - Summary of Statement of Costs – (excluding total call minutes and average cost per unit).
  - Retail Business (Core Network Business (Profit and Loss Account & Statement of Mean Capital Employed);
  - Disaggregated financial statements (i.e. Profit and Loss Account & Statement of Mean Capital Employed) for:
    - Exchange line rental and connection;
    - Bailiwick Calls, comprising local calls, local internet calls, and calls to Guernsey mobiles
    - National and Jersey Calls to geographic numbers
    - International Calls;
    - Calls to non geographic numbers other than Bailiwick numbers, comprising non-geographic calls free to calling customer; non-geographic calls charged at local rate; non – geographic calls charged at national rate; and non-geographic calls charged at premium rate;
    - Public Payphones;
    - Remaining Activities including Internet, Leased Lines and other retail activities
  - Profit and Loss Reconciliation Statement for disaggregated retail financial statements;
  - Mobile Business (Profit and Loss Account & Statement of Mean Capital Employed);
  - Other Activities (Profit and Loss Account & Statement of Mean Capital Employed);
  - Inter Business Costs Summary;
  - Transfer Charge Statement;
- Accounting Documents; and
- Cost Attribution Methodology.

All future Regulatory Accounts will comprise making the following documents available on its website and making available on request:

- Audited Regulatory Accounts for:
  - Local Access Network (Profit and Loss Account & Statement of Mean Capital Employed);
  - Core Network Business (Profit and Loss Account & Statement of Mean Capital Employed)
    - Statement of Costs of Network Services – usage factors (excluding disaggregated retail products);
    - Statement of Costs of Network Services – average cost per minute (excluding disaggregated retail products);
    - Summary of Statement of Costs – (excluding total call minutes and average cost per unit).
  - Retail Business (Core Network Business (Profit and Loss Account & Statement of Mean Capital Employed);
  - Disaggregated financial statements (i.e. Profit and Loss Account & Statement of Mean Capital Employed) for:
    - Exchange line rental and connection;
    - Local calls;
    - Local internet calls;
    - Jersey calls;
    - National Calls;
    - International Calls;
    - Calls to Guernsey Mobile;
    - Non-geographic calls free to calling customer;
    - Non-geographic calls charged at local rate;
    - Non –geographic calls charged at national rate;
    - Non-geographic calls charged at premium rate;
    - Internet;
    - Directory Enquiry;
    - Public Payphones;
    - Leased Lines;
    - Remaining Activities
  - Mobile Business (Profit and Loss Account & Statement of Mean Capital Employed);
  - Other Activities (Profit and Loss Account & Statement of Mean Capital Employed);
  - Inter Business Costs Summary;
  - Transfer Charge Statement;
  - Profit and Loss Reconciliation Statement; and
  - Balance Sheet Reconciliation.
- Accounting Documents; and
- Cost Attribution Methodology.

These accounts shall be published annually on 31<sup>st</sup> October in accordance with the Direction set out in document OUR 03/20 and in accordance with the Regulatory Accounting Guidelines as amended and updated from time to time (Document OUR

02/12). Cable & Wireless Guernsey may charge an administrative fee for providing hard copies of its Regulatory Accounts to interested parties which shall reflect the costs to C&WG of providing the hard copies.

**ENDS**