



Office of Utility Regulation

Investigation into Cable & Wireless Guernsey Ltd's Charges for Exchange Line Reconnections

Finding

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Contents

1.	Background	2
2.	Licence and Legal Background	3
2.1.	Powers and Functions of the Director General	3
2.2.	The Universal Service Obligation.....	4
2.3.	Price Regulated Services.....	4
3.	OUR Findings	5
3.1.	International Practice	5
3.2.	Facts	5
3.3.	C&WG Contentions.....	6
3.4.	OUR View	6
4.	Subsequent Actions undertaken by Cable & Wireless Guernsey	7
5.	Conclusion	8

1. Background

In April and May 2004, the OUR was contacted by a number of Cable & Wireless Guernsey (C&WG) customers who complained that they were being over-charged by the company for standard telephone line reconnections.

The customers in question stated that they were being charged the C&WG price for installing a new exchange line service when in fact they were taking over a service at a premises that had previously had a working telephone service and where all the equipment necessary for a telephone connection to be made, was already in place. Customers were of the understanding that this reconnection service would incur a “reconnection fee” – something that they understood to be part of the C&WG price list – rather than the price of installing an entirely new service where no equipment or network was in place.

The OUR initially raised these complaints with C&WG on the assumption that the difficulty arose due to a lack of clarity as to the different charges for three distinct services, i.e.

- A transfer of responsibility (change of name) for an existing telephone service;
- A reconnection of a telephone service where a fully working service had previously been in place and the equipment and network necessary to provide a service was in place; and
- A connection of a new telephone service where no service had previously been in place.

Given that customers were not clear with regard to the charges for connections and reconnections of telephone lines, the circumstances in which different charges might apply, and the level of the charges, the OUR requested C&WG to clarify this directly with its customers and inform OUR of progress.

However, on receipt of the company’s view on this matter, the OUR became concerned that C&WG had in fact either changed an existing service, or changed a price of a service or changed the definitions of a service (that was part of the universal service obligation) that was subject to price control, without notification or approval. The OUR commenced an immediate investigation into this issue and encouraged all affected parties to log their formal complaints with C&WG with a view to ensuring that, following the finalisation of this investigation, their complaints could be resolved to their satisfaction.

Throughout the course of the investigation, OUR provided C&WG with repeated opportunities to provide a clear understanding of;

- Any changes the company had made to its charging structure which triggered the several complaints the OUR was receiving;
- Any changes to the definitions of services that had been made; and
- The internal practices of the company including the internal product definitions used and the work associated with providing those products.

C&WG were offered every opportunity to provide any and all information relating to any changes the company had made to exchange line connection and takeover charges.

2. Licence and Legal Background

This section sets out some of the legal and licensing provisions that are relevant to this investigation but does not purport to provide a full list of all relevant legal provisions in this case as other general provisions also apply.

2.1. Powers and Functions of the Director General

Section 2 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (“the Regulation Law”) requires the Director General to promote and balance a range of objectives including (but not limited to);

- protecting the interests of consumers and other users within the Bailiwick of Guernsey in respect of prices charged for utility services¹,
- securing, insofar as is practicable, the provision of utility services to meet reasonable demands², and
- ensuring that utility activities contribute to the economic and social well being of the Bailiwick³

Section 4 of the Regulation Law grants the Director General a range of functions including (but not limited to);

- Granting licences⁴;
- Monitoring, enforcing, modifying, suspending, revoking licences⁵; and
- Receiving and conducting enquiries and investigations regarding utility activities⁶.

Section 5 of the Regulation Law empowers the Director General to do such things as are necessary or expedient to exercise her functions and powers, including (but not limited to)

- Determine conditions in a licence⁷;
- To require the production of such documents, accounts or information from licensees in relation to utility activities within such time periods or at such intervals as the Director General may require⁸;
- Subject to States Directions to determine the universal service that should be imposed on any licensee⁹;

¹ Section 2(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

² Section 2(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

³ Section 2(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

⁴ Section 4(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

⁵ Section 4(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

⁶ Section 4(1)(e) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

⁷ Section 5(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

⁸ Section 5(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

⁹ Section 5(1)(d) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

- To give directions to a licensee concerning utility activities in cases where he is authorised to do so by or under this Law, any Sector Law or any condition of a licence¹⁰; and
- Impose any direction, requirement or sanction under the Regulation Law or sector laws¹¹.

2.2. The Universal Service Obligation

The States of Guernsey resolved¹² to give a direction to the Director General in accordance with Section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 in relation to the universal service obligation that should exist in the telecommunications sector. That Direction stated, *inter alia*, that all users in the Bailiwick shall have available to them certain services at a specified quality, independently of geographical location and, in the light of local and national conditions, at an affordable price. One such service is that “*all reasonable requests for connection to the public telephone network at a fixed location and for access to publicly available telephone services at a fixed location shall be met by at least one operator*”.

A further Direction¹³ required the Director General to issue to Guernsey Telecoms (now Cable & Wireless Guernsey) a licence imposing the universal service obligation.

Condition 12.1 of Cable & Wireless Guernsey’s Fixed Telecommunications Licence requires that the Licensee shall provide in the Bailiwick of Guernsey, the Universal Service Obligation (USO) set out in the States Direction. Condition 12.1 also requires the Licensee to comply with any direction given from time to time by the Director General in respect of the universal service.

2.3. Price Regulated Services

In accordance with Section 5(1)(f) of the Telecommunications (Bailiwick of Guernsey) Law, 2001 the Director General included a condition in the licence of C&WG to control the prices, premiums and discounts charged or offered by C&WG. That condition (condition 31 of the fixed telecommunications licence conditions) provides that the Director General may determine the maximum level of charges the Licensee may apply for Licensed Telecommunications Services within a Relevant Market in which the Licensee has been found to be dominant.

C&WG has been found to be dominant in, *inter alia*, the fixed telecommunications services and network markets¹⁴. Accordingly a price control has been imposed on services provided by C&WG in those markets¹⁵. Condition 31 also provides that C&WG may not change regulated prices without prior notification and publication, that prices

¹⁰ Section 5(1)(e) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

¹¹ Section 5(1)(g) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

¹² States Resolutions 2001, page 25-26 and Billet D’Etat VI 2001, page 341

¹³ States Resolutions, 2001, pages 78-80 (item no 8)

¹⁴ See document OUR 01/14

¹⁵ See document OUR 02/11

must be transparent and non-discriminatory. In addition, the Director General may, having consulted the Licensee and such other persons as she may determine, issue a direction to require the Licensee to bring prices, discount schemes or special offers into conformity with the Laws and/or the requirements of this Licence where she considers that any prices breach those provisions.

3. OUR Findings

3.1. International Practice

It is international best practice to ensure that the services offered by telecom providers to customers wishing to have a telephone line installed in their premises are clearly defined and the prices charged for the different services reflect the amount of engineering work involved in providing that service. It is, for example, general practice that where a property has previously had a telephone service and all line work is in place and an engineer is not required to attend the premises then a customer is charged a “re-connection” fee which is significantly lower than the cost of a new installation. This “re-connection fee” is then often split into differing amounts depending on the level of work required to provide the service.

Below sets out an example of how a pricing structure is defined with option 1 incurring the highest charge for a brand new installation and the price gradually decreasing with option 5 having no charge:

- Option 1.** New telephone installation where no working service was previously in place.
- Option 2.** Taking over a telephone service where there was an existing telephone installation, but there had been a break in service and the new customer requires a new telephone number.
- Option 3.** Taking over an existing telephone service where there was an existing telephone installation, but there had been a break in service and the new customer uses the existing telephone number.
- Option 4.** Taking over an existing telephone service where there was an existing telephone installation, and there has been no break in service, but the new customer requires a new telephone number.
- Option 5.** Taking over an existing telephone service where there was an existing telephone installation and there has been no break in service and the new customer continues to use the existing telephone number.

3.2. Facts

C&WG confirmed that on 1st April 2004 they removed a service from the price list called “reconnection” and the reason the company gave for this was that “we see no difference between reconnection and transfer of responsibility”. The company then proposed to change the wording in the price list describing transfer of responsibility as “*I wish to take over the existing working service at the existing premises*”.

The effect of withdrawing this product and changing the wording as above is that:

- Previously a customer who wished to take over a pre-existing telephone line where the previous customer had recently ceased the service, could avail of a “reconnection” service at a price of £24.80.
- Following the change, the same customer would be charged the full new telephone line connection rate of £101.30

These changes were made by the company without informing either its customers or the OUR and the effect is that customers are now paying more for a service than they were previously.

3.3. C&WG Contentions

C&WG allege that the “reconnection” service in fact should only be provided to customers where the existing service has not been ceased by the previous customer, i.e. where there is an immediate transfer of the line from one customer to another without cessation of service. This equates to Options 4 and 5 described in section 3.1 above.

C&WG further claim that there is in fact sufficient engineering work required to “reconnect” a service where the service has been ceased (no matter whether the cessation was for a number of hours, days or weeks) and this justifies the charge of £101.30 which is identical to the full new connection charge.

Finally, C&WG claim that customers may have been incorrectly charged for the “reconnection” service in the past, and that this practice should now cease and the “correct charge” (as C&WG perceive it) instituted.

C&WG failed to provide OUR with useful data on the number and type of connections, reconnections and transfer of responsibility services provided to its customers over any representative period of time to substantiate its claims, stating that it was not possible or cost effective to provide this data.

Finally, C&WG stated that, as the OUR had raised this issue with it, and the company had commenced to examine it, the view of the company was that the price for connections (currently £101.30) should be increased as C&WG alleges that the costs of providing this service are greater than the list price.

3.4. OUR View

There is clear and prima facie evidence that C&WG has changed or withdrawn a service in a manner that seriously affects its customers and C&WG has failed to provide any evidence or supporting data to substantiate its claims as described above.

In the first place, the transfer of responsibility of an exchange line is a service which is under the existing price control and by altering the wording of this to mean “taking over an existing working service at the existing premises” constitutes a change in the definition of a service within C&WG price control and any such changes should be

notified to OUR and published 21 days prior to coming into effect in accordance with Condition 31.1 of C&WG's licence.

Second, the actions of C&WG in this case clearly adversely affect customers who have not been notified of the change in any way and results in charges that are not transparent to the customer as required by Condition 31.3.

Third there is no justification for charging the same price for a reconnection where a pre-existing line is in place as for an entirely new connection, as is clear from international practice.

For the avoidance of doubt, the OUR does not accept the conclusion by C&WG that, having been required by OUR to examine this issue, it concludes that the price for full connection (currently £101.30) should increase.

4. Subsequent Actions undertaken by Cable & Wireless Guernsey

At the conclusion of this investigation Cable & Wireless chose to undertake the following actions:

Reinstatement of Product

Cable & Wireless Guernsey will re-instate the product "reconnection" in its price list as set out below with immediate effect.

Reconnection	Option to choose Prestige number	Connection charge
Standard (allocated number/Prestige number)	£25.00	£24.80

The charge of £24.80 shall apply to any customer wishing to connect a telephone line in a property which previously had a telephone service, where all line work is in place and it is not necessary for an engineer to visit the premises to effect the reconnection. If the customer wishes to choose a "prestige number" than an additional charge of £25.00 may apply.

Refund of Customers

Cable & Wireless Guernsey will refund all customers who, since April 2004, have been charged an amount greater than £24.80 as described in the table above for a reconnection service where the customer took over a telephone line in a property which previously had a telephone service, where all line work was in place and it was not necessary for an engineer to visit the premises to effect the reconnection.

The refund shall be the difference between the amount paid, and the connection charge of £24.80 described above.

Reporting

To demonstrate that the above measures have been taken, Cable & Wireless Guernsey will, within 21 days of publication of this finding, provide a report to the OUR setting out the number of customers due to receive a refund, the amount of each refund and the date the customer will be credited the refund. Cable & Wireless Guernsey will also provide the OUR with a report within 5 days of the date on which the last customer has been refunded, confirming all of the refunds made.

Further Changes

Cable & Wireless Guernsey will not amend the charges for these services, or amend these services before the end of the current Cable & Wireless Guernsey price control, that is until the end of March 2005, without the explicit approval in writing of the OUR.

5. Conclusion

The OUR welcomes the decision by C&WG to undertake the actions outlined above to reimburse customers and reinstate the reconnection service and is satisfied that these actions will remedy any licence breach.

The OUR considers that C&WG should review the descriptions of all connection and reconnection services with a view to clarifying the services and charges available. The summary of international practice in this paper should inform any such review. Any proposals for changes to the structure, definition or prices for these services should be submitted to OUR for consideration.

/ENDS