



Office of Utility Regulation

Wave Telecom Mobile Licences: Failure to Meet Launch Date

Statutory Invitation to Comment

Notice of proposal to issue a Direction to Wave Telecom Ltd under Section 27 of the Telecommunications (Bailiwick of Guernsey) Law, 2001

Document No: OUR 04/06

May 2004

1. Background

Following a public tender competition for the award of mobile licences, the Director General awarded Wave Telecom Ltd licences on 1st April 2003 for the provision of 2G and 3G mobile telecommunications networks and services in the Bailiwick of Guernsey. Among the conditions included in the two licences, and accepted by Wave Telecom, are specific targets with regard to the levels of coverage and roll-out that must be achieved by specified dates. These are detailed in Condition 15 of the licences.

Condition 15.2 of the 2G Mobile Telecommunications licence and Condition 15.2 of the 3G Mobile Telecommunications licence required Wave Telecom to commence the provision of the licensed mobile services to the public by 30th April 2004. Condition 12.1 of the licences required that service be provided to the public generally and without discrimination.

Wave Telecom has confirmed to the OUR by letter dated 4th May 2004 that it has not launched the services as required under the terms of its mobile licences.

2. Findings of Breaches of Licence Conditions

Condition 15.2 of Wave Telecom's 2G Mobile Telecommunications Licence and **Condition 15.2** of Wave Telecom's 3G Mobile Telecommunications Licence states:

“The Licensee shall roll-out the Licensed 2G/3G Mobile Telecommunications Network and shall commence provision of Licensed 2G/3G Mobile Telecommunication Services by 30th April 2004.”

Wave Telecom is found to be in breach of Condition 15.2 of its 2G Mobile Telecommunications Licence and Condition 15.2 of its 3G Mobile Telecommunications Licence in that it has failed to commence the provision of the licensed mobile services to the public by 30th April 2004

3. Proposed Direction

In the light of the licence breaches set out above and in accordance with section 27 of the Telecommunications (Bailiwick of Guernsey) Law, 2001, the Director General proposes to direct Wave Telecom to do the things set out in the following paragraph by the time specified in that paragraph, in order to address the licence breaches.

Wave Telecom is directed to commence the provision of its Licensed 2G Mobile Telecommunication Services and its 3G Mobile Telecommunication Services by 1st July 2004 .

4. Sanctions

In the event that Wave Telecom Ltd does not comply with any Direction issued in accordance with Section 27 of the Telecommunications (Bailiwick of Guernsey) Law, 2001, the Director General may impose any of the sanctions available under the Law. The sanctions set out in section 27 of the Law are;

- Suspension of licence
- Revocation of licence or
- Imposition of a financial penalty

Before invoking any of these sanctions the Director General must follow the procedure set out in section 28 of the Law.

The Director General reserves the right to invoke any of these sanctions but clearly cannot fetter her discretion or prejudge the final Direction that may be issued until after she has complied with the procedure set out in section 27 of the Law and considered any written representations or objections.

5. Conclusions

In accordance with Section 27(3) of the Telecommunications (Bailiwick of Guernsey) Law, 2001, the Director General gives notice in this document, of her intention to issue a direction under Section 27(2) of that Law to Wave Telecom Ltd.

Wave Telecom Ltd and any interested parties may make any written representations or objections in respect of the proposed Direction. Such written representations or objections must be provided by 5pm on 18th May 2004 and shall be sent to the following address:

Office of Utility Regulation
Suites B1&B2
Hirzel Court
Hirzel Street
St Peter Port
Guernsey
GY1 2NH

In accordance with section 27(4) of the Telecommunications (Bailiwick of Guernsey) Law, 2001, the Director General shall consider any representations or objections received within the relevant time period before publishing her decision to make or not make a final Direction. Following the making of any Direction, Wave Telecom Ltd's compliance will be monitored and the Director General is empowered to invoke the sanctions available in the Law in the event of any failure in compliance.

/END