



Interim Price Control for C&W Guernsey Ltd

Consultation Document

Document No: OUR 05/02

January 2005

Office of Utility Regulation
Suites B1 & B2, Hirzel Court, St Peter Port, Guernsey, GY1 2NH
Tel: (0)1481 711120, Fax: (0)1481 711140, Web: www.regutil.gg

Contents

1. Introduction.....	2
2. Structure and Comments	3
2.1. Structure	3
2.2. Comments	3
3. Background	4
3.1. Legislative and Licensing Background.....	4
3.2. The setting of the First Price Control.....	4
3.3. Price Control Consultation Papers issued in 2004.....	5
4. Interim Options.....	6
4.1. Option 1 - Continuation of Existing Price Control	6
4.2. Option 2 - Price Freeze on Any Increases in Charges	7
4.3. Option 3 – Continue Current Control with a Price Freeze on Any Increases in Charges	7
4.4. Option 4 – Continue Current Control on Targeted Services.....	7
4.5. Issue for Consultation	7
5. Next Steps	8

1. Introduction

In November 2001, the Office of Utility Regulation (“OUR”) consulted on the need for, and the format of price control in the telecoms market¹, and published a report on that consultation in March 2002². The Director General of Utility Regulation (“DG”) set a price control for C&W Guernsey Ltd (“C&WG”) using the internationally recognised mechanism of incentive regulation which comprised four baskets of fixed telecommunications services provided to end users, ranging from the provision of leased lines to call charges and line rental. The duration of this first price control was later amended to align with C&WG’s financial year and is due to expire on the 31st March 2005.

In preparation for the end of the first price control period the OUR published, in the summer of 2004, a series of consultation papers³ which reviewed the existing retail price control in the Guernsey telecommunications market and covered a wide range of inter-related issues. Towards the end of 2004 the OUR received a confidential business plan from C&WG setting out its proposed pricing strategy as an input to the OUR’s consideration of any future price control on the company. The business plan included an excel model showing the company’s forecast costs and revenues going out to 2010/11.

The DG recognises that it is not now going to be possible to complete the review of the business plan and consider the responses to the three consultation papers and have a new price control in place before the end of March 2005. The DG expects⁴ to conclude this work programme in the summer of 2005 with any new price control coming into effect from 1st October 2005. This paper therefore sets out for public consultation possible interim arrangements for C&WG’s retail price control for the period 1st April 2005 to 30th September 2005.

This consultative document does not constitute legal, commercial or technical advice. The Director General is not bound by it. The consultation is without prejudice to the legal position of the Director General or her rights and duties to regulate the market generally.

¹ Document OUR 01/22: Proposals for the Price Regulation of Fixed Telecommunications Services; Consultation Paper

² Document OUR 02/11: Price Regulation of Fixed Telecommunications Services: Report on the Consultation and Decision Notice

³ Document OUR 04/09 “Market Dominance in the Telecommunications Sector in Guernsey”, Document OUR 04/10 “Price Control for Telecommunications Services in Guernsey: Review of Price Control Scope and Structure”, and Document OUR 04/11 “Price Control for Telecommunications Services in Guernsey: Calculating Allowed Revenue and the Cost of Capital”.

⁴ Available at www.regutil.gg/work_programme/work_programme.asp?Sector=Telecommunications

2. Structure and Comments

2.1. Structure

The rest of this paper is structured as follows:

Section 3: describes the legal and licensing background in the telecommunications sector whilst summarising the OUR's activities in this area in the second half of 2004;

Section 4: sets out a range of possible options that are available for the interim price control for the period 1st April 2005 to 30th September 2005; and

Section 5: sets out the next steps in the process.

2.2. Comments

Interested parties are invited to submit comments in writing on the matters set out in this paper to the following address:

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

Email: info@regutil.gg

Responses to the consultation paper should be submitted by 5pm on Monday 14th February 2005. All comments should be clearly marked "**Comments on Interim Price Control for C&W Guernsey Ltd**".

In line with the policy set out in Document OUR 04/01 – "Regulation in Guernsey; Revised Consultation Procedures", the DG intends to make responses to the consultation available on the OUR website. 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 in early March 2005.

3. Background

3.1. Legislative and Licensing Background

Section 5(1) of the Telecommunications (Bailiwick of Guernsey) Law, 2001 (“the Telecoms Law”), provides that the DG may include in licences such conditions as she considers necessary to carry out her functions. The Law specifically provides that such conditions can include (but are not limited to):

- conditions intended to prevent and control anti-competitive behaviour⁵; and
- conditions regulating the price premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market⁶.

In accordance with these provisions, both the “Fixed Telecommunications Licence” and the “Mobile Telecommunications Licence” include the following condition⁷:

“The DG 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. A determination may;

- a) provide for the overall limit to apply to such Licensed Telecommunications Services or categories of Licensed Telecommunications Services or any combination of Licensed Telecommunications Service;*
- b) restrict increases in any such charges or to require reductions in them whether by reference to any formula or otherwise; or*
- c) provide for different limits to apply in relation to different periods of time falling within the periods to which the determination applies.”*

This condition allows the DG to regulate the prices that a licensee charges for its telecommunications services in a way and for a time that she deems appropriate, where the licensee has a dominant position in the relevant market.

The question of market dominance in the telecommunications sector was consulted upon in the second half of 2004 (see section 3.3 below).

3.2. The setting of the First Price Control

In November 2001, the OUR consulted on the need for, and the format of price control in the telecoms market⁸, and published a report on that consultation in March

⁵ Condition 5(1)(c) of the Telecommunications (Bailiwick of Guernsey) Law, 2001.

⁶ Condition 5(1)(f) of the Telecommunications (Bailiwick of Guernsey) Law, 2001.

⁷ Condition 31.2 of C&WG’s Fixed Telecommunications Licence and 27.2 of the company’s Mobile Telecommunications Licence.

⁸ Document OUR 01/22: Proposals for the Price Regulation of Fixed Telecommunications Services; Consultation Paper

2002⁹, along with a decision to impose price control on a range of fixed telecommunications services using the internationally recognised mechanism of incentive regulation.

The price control set an upper limit for the prices of a number of baskets of services provided by C&WG, allowing individual prices for services within those baskets to change upward or downward, within the overall constraint of the control. The control was initially set for the period from 1st April 2002 to 31st December 2004. This was later amended to be aligned with a change in the year-end of C&WG so as to facilitate reporting and compliance monitoring. The price control was therefore extended to 31st March 2005.

3.3. Price Control Consultation Papers issued in 2004

During the summer of 2004 the OUR issued three consultation papers related to price controls in Guernsey's telecommunications market.

Consultation paper OUR 04/09 described how the DG proposed to use information to review the current stage of development of the telecommunications market in Guernsey and to assess whether C&WG was dominant in any relevant market.

A second paper (OUR 04/10) looked at the type of price control that has been in place (i.e. incentive regulation) in Guernsey since March 2002. The paper revisited the strengths and weaknesses of incentive regulation and considered whether a control should continue to apply. It went on to consider the range of services included in the control and whether there should be any changes to the scope of any future control. It also looked at the structure of the control and consulted on whether this should be changed.

The final paper, OUR 04/11, addressed some specific technical aspects of the price control. First, the paper considered a range of key inputs into calculating the allowed revenue of the price controlled business over the period of price control including the asset base, an allowance for capital investment and operating costs. The paper then considered how to arrive at an appropriate cost of capital for the business and addressed a detailed submission from C&WG on this topic.

⁹ Document OUR 02/11: Price Regulation of Fixed Telecommunications Services: Report on the Consultation and Decision Notice

4. Interim Options

The DG recognises that it is not now going to be possible to complete the review of the business plan and consider the responses to the three consultation papers and have a new price control in place before the end of March 2005. The DG expects to conclude this work programme in the summer of 2005 with any new price control coming into effect from 1st October 2005. This section therefore considers the various options that exist for C&WG's price control for the period 1st April to 30th September 2005.

4.1. *Option 1 - Continuation of Existing Price Control*

The simplest option for the interim price control would be extending the existing price control for another six months through to 30th September 2005 pending the conclusion of the OUR's price control work programme described in section 3.3. The DG notes that there is a precedent for this option in that the original price control was extended from 31st December 2004 to 31st March 2005, following the sale of Guernsey Telecoms to C&WG in May 2002 to align the price control with C&WG's financial year end.

C&WG's current price control comprises four "baskets" of services that are subject to a cap. These are as follows:

Basket 1: Leased lines: No change

- private circuit connection and takeover
- private circuit rental

There shall be no upward change in the price of this basket or in the price for any individual service within the basket

Basket 2: ShortCall Basket: RPI - 3%

- Shortcall line connection and takeover,
- Shortcall line rental
- Shortcall local calls

Changes in the price of this basket shall not exceed RPI – 3%.

Basket 3: Main basket: RPI-5%

- Exchange line connection and takeover
- ISDN line rental, connection and takeover
- Local dialled calls
- Jersey dialled calls
- National dialled calls
- International dialled calls
- Local dialled calls to ISPs
- National dialled calls to ISPs
- Operator calls
- DQ calls (including call charges and facility charge)
- Payphone calls

Changes in prices of this basket shall not exceed RPI - 5%.

Basket 4: Exchange Line Rental: RPI+7%

- Exchange line rental
- Changes in the price of this basket shall not exceed RPI + 7%

The extension of the existing price control would need to be applied on a pro-rata basis i.e. adjusted to take into account the six month period. The RPI figure would be for the six month period and the X factor would be halved to reflect the half year period covered by the interim price control.

4.2. Option 2 - Price Freeze on Any Increases in Charges

The second option comprises a price freeze on any upward movement in C&WG's services. The current price control relates only to C&WG's fixed to fixed calls and as such excludes all fixed to mobile, mobile to fixed, and mobile to mobile calls. The scope of any future price control is being considered in the consideration of response to document OUR 04/10. Pending the conclusion of this work the DG could freeze any price increases for all of C&WG's services. C&WG of course would be free to reduce any prices in response, so long as these price reductions were in accordance with its licence conditions.

4.3. Option 3 – Continue Current Control with a Price Freeze on Any Increases in Charges

The third option would be to continue with the existing price controls for baskets 1 and 3 but freeze prices in baskets 2 and 4 (see section 4.1). This would freeze prices for exchange line rentals and all products in the shortcall basket. This interim control would control any increases in prices for vulnerable users. Again any continuation of the existing price control would be applied on a pro rata basis as explained in section 4.1.

4.4. Option 4 – Continue Current Control on Targeted Services

A fourth option would be to allow the existing price control to continue on all but baskets 2 and 4 and remove local calls (ppm and per call charges) from basket 3. These prices for the products in baskets 2 and 4 and the local calls would be frozen. The continuation of the existing price control would be applied on a pro rata basis as explained in section 4.1.

4.5. Issue for Consultation

The DG welcomes views on the options presented in this paper.

5. Next Steps

The DG intends to review responses to this consultation and issue a Decision Notice setting out the Interim Price Control for the period 1st April to 30th September 2005 in March 2005.

In concluding the OUR's review of any future price control to be applied to C&W Guernsey the DG is aiming to publish for public consultation a draft position paper in Q2 2005, having completed its review of C&WG's business plan, setting out the OUR's position on the three consultation papers issued in 2004.

Concurrently with this review, C&WG will also be submitting and publishing its 2003/04 Regulatory Accounts at the end of Q1 2005 which for the first time will have been prepared on a CCA basis. These accounts will form the basis for the company's proposed interconnection and access rates which the OUR anticipates receiving from the company in May 2005. The OUR will review the company's proposals immediately upon receipt of the information and is aiming to publish the DG's final price control decision and a decision on interconnection and access rates during Q3 2005.

/ENDS