



Office of Utility Regulation

## **Amendment to Guernsey Airtel Ltd 's 2G and 3G Mobile Licences**

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Report on the Consultation and Notice of  
Modification to Guernsey Airtel Ltd's Licences for  
2G and 3G Mobile Telecommunications Networks  
and Services under Section 2(1) of the  
Telecommunications (Bailiwick of Guernsey) Law,  
2001

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# 1. Introduction

## 1.1. Notice of Modification

Document OUR 07/10 gave notice<sup>1</sup> of the Director General's ("DG") intention to modify Guernsey Airtel Ltd's ("GAL") 2G and 3G Licences under section 2(1) of the Telecommunications (Bailiwick of Guernsey) Law, 2001 (the "Licences").

Notice of the proposed modification was also published in the Gazette Officielle on 5<sup>th</sup> September 2007.

## 1.2. Proposed Modification

The proposed modification to the Licences entailed:

- (i) extending the deadline for the commencement of public mobile telecommunication services as set out in condition 15 of the Licences by removing the reference to 15<sup>th</sup> September 2007 and replacing it with the date of 15<sup>th</sup> December 2007:
- (ii) including a firm commitment from Airtel regarding benefits to be provided to Airtel's customers: and
- (iii) replacing the reference to 15<sup>th</sup> September 2007 in condition 16.2 with a reference to 15<sup>th</sup> December 2007. The DG also proposed to amend section 16.2 of the Licences by replacing references to 15<sup>th</sup> September 2007 with references to 15<sup>th</sup> December 2007.

## 1.3. Reason for Proposed Modification

It was drawn to the DG's attention that recent developments in the States' policy regarding grant of planning permission for masts were having a direct effect on Airtel's ability to roll out its mobile telecommunications network. In particular the States' Environment Department ("ED") has indicated that its primary objective when considering planning applications for masts, will be to minimise the need for new greenfield mast development and to focus on redevelopment of existing mast sites as an alternative to erection of additional masts in locations close to existing masts. As a result ED has made clear in particular with regard to GAL that, in order to encourage effectively the sharing/redevelopment of the existing masts as an overall policy approach, it is not currently in a position to approve any of applications for new greenfield masts submitted by GAL to date.

On 17<sup>th</sup> August 2007 GAL submitted a request to the DG seeking an extension of six months – to 15<sup>th</sup> March 2008 - to the time period set out in Condition 15.2 of the Licences. The request was made on the basis that the position adopted by the ED constitutes an alteration to the planning environment which existed in 2006 at the time

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<sup>1</sup> Amendment to Guernsey Airtel Ltd's Licences, Statutory Invitation to Comment.

of the application for the Licences. GAL has confirmed that it will not be able to meet the current roll-out deadline of 15<sup>th</sup> September 2007.

In document 07/10 the DG proposed to grant an extension of three months and modify GAL's Licences accordingly.

#### **1.4. Responses to the Proposed Modification**

In accordance with section 8(2)(c) of the Telecommunications (Bailiwick of Guernsey) Law, 2001, interested parties were invited to submit written representations or objections to the proposal in this notice within seven days of publication of the notice in the Gazette Officielle.

The DG received responses to the statutory invitation to comment from:

- C&W Guernsey ("C&WG");
- Guernsey Airtel Ltd; and
- No More Masts ("NOMM").

The DG wishes to thank all respondents for their contributions in helping to inform his consideration of the issue. In line with OUR standard practice, non-confidential responses are available for inspection at the OUR's office and are also published on the OUR's website [www.regutil.gg](http://www.regutil.gg).

#### **1.5. Structure of Paper**

This paper is structured as follows:

**Section 2** presents a summary of the responses received and, in light of consideration of the comments received, the DG's position on the proposed licence modification; and

**Annex 1** contains the notice of the modification to GAL's Licences.

## **2. Consideration of Responses**

This section summarises the key points raised by respondents to the Statutory Invitation to Comment and the DG's response to those comments.

### **2.1. Respondent's Views**

C&WG noted that GAL had been awarded a 3G licence with the commitment to launch service on 15<sup>th</sup> September 2007 and that the planning approval difficulties being faced by GAL could and should have been foreseen by GAL and the OUR. In addition C&WG stated that it believes that GAL should have applied for planning permission far earlier than it did and if it had done so it would have avoided the need for an extension.

C&WG also made comments relating to:

- The launch date in GAL's bid and the design of the 3G competition for which GAL would have been awarded points for providing a commitment to launch on the 15<sup>th</sup> of September 2007; and
- Proposing that GAL be required to make more significant commitment to their customers if the company fails to launch on the 15<sup>th</sup> of December.

NOMM made three specific comments on the proposed modification.

In the first instance NOMM sought clarification on what penalties were in place on GAL's original licence award for failing to meet in this case the launch date. Following on from this NOMM sought clarification on what penalties existed should GAL fail to meet the percentage coverage targets on 15<sup>th</sup> December 2007. Finally NOMM sought clarification as to the meaning of the expressions "masts in locations close to existing masts" and "not significantly higher than the existing masts on the nearby site".

GAL, whilst requesting the six month extension to its licence obligation, supported the DG's proposal to amend the launch date to 15<sup>th</sup> December 2007.

### **2.2. Director General's Response**

The DG is pleased that no respondent objected to the proposed modification to GAL's licence (though he has noted C&WG's reservations) and he now intends to proceed with formally amending the licence. The reasons for the modification were set out previously in full in OUR 07/10 and summarised in section 1.3 above.

The DG's comments on the specific points raised by respondents are set out below in turn.

The DG is disappointed that GAL will not launch its services by 15 September 2007 as required under its original Licences. While the DG considers that GAL might indeed have commenced the planning application process sooner than it did, the DG believes that, regardless of the timing of submission by GAL of its planning applications, the current planning environment in which GAL now finds itself

operating differs from that which prevailed at the time of grant of the Licences and that this change is not something which could reasonably have been foreseen by GAL (or OUR). It is in the context of this new development in the application of the States' policy on planning permission for masts that the DG proposes to modify GAL's Licences.

With respect to those comments from C&WG which relate to decisions made in relation to design and running of the 3G competition launched in January 2006, the DG does not consider it appropriate to revisit that competition at this point and does not consider such comments to be relevant to the modification now under consideration given the context in which that modification is proposed.

In response to C&WG's request for additional commitments from GAL, the DG is of the view that the performance guarantees included in GAL's Licences were those which were included in the company's bid and it would not be appropriate for the DG to substitute alternative performance guarantees at this stage.

GAL's original performance guarantees were set out in its bid during the 2006 3G licence competition and as such are commercially confidential. These parts of GAL's licences will remain confidential until such time as application of the relevant conditions is triggered. In any event GAL have committed to honouring those performance guarantees and these will in effect become publicly available when GAL launches its services.

The DG does not consider it appropriate that he speculate at this time as to what sanctions might be appropriate to impose on GAL if it fails to launch its services by 15<sup>th</sup> December 2007. The DG is obliged to follow the procedures set out in section 27 of the Telecommunications (Bailiwick of Guernsey) Law, 2001 with respect to licence breaches. Therefore any sanctions allowed for under section 28 of the Telecommunications (Bailiwick of Guernsey) Law, 2001 can only be applied in respect of a licence breach once the DG has followed the process required under section 27.

The consultation papers issued by the DG summarised his understanding of the ED's policy with respect to consideration of mast applications. Any further comments or questions of interpretation should be addressed to the Environment Department's Planning Control Services group.

**/ENDS**

## **Annex 1 Notice of Modification of Licence**

On the 20<sup>th</sup> of August 2007, the Director General issued a Statutory Invitation to Comment and on 5<sup>th</sup> September published notice of his intention to modify the 2G and 3G licences of Guernsey Airtel Ltd, in accordance with:

- Section 8 of the Telecommunications (Bailiwick of Guernsey) Law, 2001; and
- Condition 6 of the 2G and 3G Mobile Telecommunications Licences issued to Airtel Guernsey Ltd on 15 September 2006 under Part 1, Section 1 of the Telecommunications (Bailiwick of Guernsey) Law, 2001, (collectively the “Licence”).

The notice was published in Document OUR 07/10 on the OUR website and a notice was also placed in the Gazette Officielle inviting comments on the proposal in accordance with section 8 (2) (c) of the Telecommunications (Bailiwick of Guernsey) Law, 2001. The Director General has considered all written representations and objections to the proposed licence modifications.

Having followed the procedure set out in section 8 of the Telecommunications (Bailiwick of Guernsey) Law, 2001, the Director General hereby gives notice of the following modifications of the 2G and 3G licences issued to Guernsey Airtel Ltd under section 2(1) of the Telecommunications (Bailiwick of Guernsey) Law, 2001 as follows:

Condition 15 of the 2G and 3G licences is hereby deleted and replaced with the following condition:

### **15. DEVELOPMENT OF NETWORK AND SERVICES**

*15.1 The Licensee shall roll-out and operate the Licensed 3G Mobile Telecommunications Network so as progressively to achieve standards in line with international best practice and in particular, the Licensee shall achieve and comply with relevant standards established by ETSI, the ITU and such other international benchmarks as the Director General may direct from time to time. More particularly the Licensed 3G Mobile Telecommunications Network shall be implemented in accordance with the European UMTS standard.*

*15.2 The Licensee shall roll-out the Licensed 3G Mobile Telecommunications Network and shall commence provision of Licensed 3G Mobile Telecommunications Services by 15<sup>th</sup> December 2007 with Coverage of at least 55% of the population (by resident) of the Bailiwick of Guernsey. In addition Licensed 3G Mobile Telecommunications Services will be provided to Guernsey, Alderney, Sark and Herm by 15<sup>th</sup> December 2007.*

15.3 The Licensed 3G Mobile Telecommunications Network shall provide Coverage as set out in the following table by the years set out in that table. The figures below are with respect to Voice Coverage field strength of -84 dBm (95% probability) or 58 dBµV/m.

	<b>15<sup>th</sup> December 2007</b>	<b>[XXX]</b>	<b>[XXXX] and remainder of Term</b>
<b>Minimum demographic Coverage % of population</b>	[XX%]	[XX%]	[XX%]
<b>Minimum total geographic land Coverage, %</b>	[XX%]	[XX%]	[XX%]
<b>Total geographic land Coverage, km<sup>2</sup></b>	[XX]	[XX]	[XX]
<b>Coverage on all four islands in the Bailiwick by 15<sup>th</sup> December 2007</b>			

15.4 The Licensed 3G Mobile Telecommunications Network shall provide Coverage for coastal areas out to a minimum range of 2.1 km. In addition the Licensee shall also provide specific Coverage of Sea Lanes using, where necessary, directional antennae. The Licensee shall provide Coverage by 15<sup>th</sup> December 2007 for the type of service set out below.

<b>Area Coverage</b>	<b>Voice</b>	<b>CS64/ PS64</b>	<b>PS128 (UDD 144)</b>	<b>PS384</b>
<i>Sea Lane Guernsey-Alderney</i>	[XX%]	[XX%]	[XX%]	[XX%]
<i>Sea Lane Guernsey-Sark</i>	[XX%]	[XX%]	[XX%]	[XX%]
<i>Sea Lane Guernsey-Herm</i>	[XX%]	[XX%]	[XX%]	[XX%]

15.5 The License hereby undertakes that its Users (having purchased Licensed Mobile Telecommunications Services with the Licensee within the first three months of the commercial service being launched) will receive [XXX] additional airtime at no extra cost to the users. Subscribers will receive [XXX] more contracted minutes. The Licensee's pre-pay Users will obtain [XXX] additional minutes at the next top-up.

15.6 The Licensed 3G Mobile Telecommunications Network shall be capable of offering Data Transmission Bearer Services by the times and to the extent as set out in the following table:

	<b>Measured by</b>	<b>Measured by</b>



	<b>Demographic availability (% of residents)</b>	<b>Geographical availability (% of land)</b>
<b>By 15<sup>th</sup> December 2007</b>		
<i>64 kbps circuit switched data transmission</i>	<i>[XX%]</i>	<i>[XX%]</i>
<i>Up to 384 kbps data transmission</i>	<i>[XX%]</i>	<i>[XX%]</i>
<b>By [XXXXXX]</b>		
<i>64 kbps circuit switched data transmission</i>	<i>[XX%]</i>	<i>[XX%]</i>
<i>Up to 384 kbps data transmission</i>	<i>[XX%]</i>	<i>[XX%]</i>

15.7 *The Licensee shall ensure seamless roaming between the Bailiwicks of Guernsey and Jersey, the Licensee shall ensure that its Users are not required to pay charges higher than the Licensee's equivalent charges for calls made in the Bailiwick of Guernsey for calls made while roaming into the Bailiwick of Jersey.*

Condition 16.2 of the 2G and 3G licences is hereby deleted and replaced with the following condition:

**16. TECHNICAL QUALITY OF NETWORK**

16.2. *The Licensee shall ensure that the Call Drop Rate with respect to voice services shall not exceed the following rates at the times indicated below:*

*(a) 2% by 15<sup>th</sup> December 2007 through to [XXX]; and*

*(b) 1.2% for the remainder of the Term.*

This modification takes effect from the date of the publication of this notice, which is 14<sup>th</sup> September, 2007

**/ENDS**