



Office of Utility Regulation

Amendment to Mobile Licences of C&W Guernsey, Guernsey Airtel Ltd and Wave Telecom

Statutory Invitation to Comment

Notice of Proposal to Modify the Licences for 2G and 3G Mobile Telecommunications Networks and Services issued to Guernsey Airtel Ltd and Wave Telecom and the Licence for 2G Mobile Telecommunications Networks and Services issued to C&W Guernsey Ltd under Part 1, Section 1 of the Telecommunications (Bailiwick of Guernsey) Law, 2001

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Office of Utility Regulation
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Notice of proposal to Modify the Mobile Licences of C&W Guernsey, Guernsey Airtel and Wave Telecom

In accordance with

- Section 8 of the Telecommunications (Bailiwick of Guernsey) Law, 2001; and
- Condition 6 of the Mobile Licences issued to C&W Guernsey, Guernsey Airtel Ltd and Wave Telecom under Part 1, Section 1 of the Telecommunications (Bailiwick of Guernsey) Law, 2001,

the Director General of Utility Regulation hereby gives notice of his intention to modify:

- the Mobile Licence issued to C&W Guernsey Ltd on 1st October 2001
- the Mobile Licences issued to Guernsey Airtel Ltd on 15th September 2006.
- the Mobile Licences issued to Wave Telecom Ltd on 23rd March 2003.

Modification of Condition relating to Access to Facilities

The Director General proposes to modify the licence condition included in all mobile operators' licences relating to Access to Facilities to address specifically matters related to the sharing of mobile infrastructure. He also proposes to reduce the time period for operators to reach agreement from 60 days to 30 days. It is proposed that the revised licence condition (condition 20 in C&WG's licence, Condition 23 in Airtel's licences and condition 22 in Wave Telecom's licences) will now read as set out in Appendix A

Reason for Modification

Currently there is considerable public concern about the possible proliferation of telecommunications masts in Guernsey, in particular concerns with regard to the possible environmental impact of same. In order to address this there is a need for greater co-ordination by mobile operators with regard to development and roll-out of their respective networks. In reviewing the powers available to the OUR to encourage and mandate greater co-operation there are discrepancies between the condition in some licences with regard to access to facilities (which includes base stations and ancillary equipment). In addition the Director General believes there is merit in strengthen the requirement, as part of the licence obligations on the three mobile operators, for greater co-ordination of their activities with regard to network development and roll-out.

The Director General is aware that work is proceeding between the mobile operators to agree a voluntary code on matters related to network roll-out, planning and communication of their plans with Islanders. These proposed licence modifications are intended to complement and reinforce any voluntary code which is agreed.

The Director General is also aware that the Environment Department has adopted an approach which aims to minimise the need for new greenfield mast development by

requesting that, in the case of Guernsey Airtel, it negotiate with an existing operator to share or redevelop that operator's existing masts for both operators to use; this being as an alternative to providing additional new masts in similar locations to an existing mast.

The practical effect of this is that the Environment Department requires that any application for planning permission for a mast, insofar as the application relates to a mast site near an existing mast (from which an existing telecoms operator is operating), must:

- relate to a structure which is / will be constructed so as to be capable of carrying the equipment of the new applicant and the equipment of the other operator currently operating on a nearby site, and which is not significantly higher than the existing mast on the nearby site;
- be a joint application from the operator seeking approval for a new mast and the operator with the mast on a nearby site; and
- be made in a context whereby the operator currently operating on a mast near the site where the proposed mast will be erected agrees to move to the new site and to dismantle its own infrastructure.

In light of this the Director General believes that there is merit in amending operators' licences with a view to promoting greater co-operation. The Director General is aware that such co-operation will involve the need to address technical, operational and commercial issues and he would expect that all operators will approach this issue in a sensible manner with a view to achieving a solution that is in the best interest of the Island. The Director General however wishes to make it clear that he would still expect operators to seek to agree issues on mast sharing based on commercial negotiations and that the application of the proposed modified condition would be only where such discussions prove unsuccessful.

Representations or Objections

In accordance with section 8(2)(c) of the Telecommunications (Bailiwick of Guernsey) Law, 2001, interested parties are invited to submit written representations or objections to the proposal in this notice within 10 days of publication of this notice.

Written representations or objections should be clearly marked "**Representations re proposal to modify the licence of Mobile Operators**" and be submitted by 12 noon on Thursday 30th August 2007 to:

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

Following consideration of any representations or objections the Director General will publish notice of his decision to modify or not to modify the licence.

/END

**Revised Access to Facilities Condition 20
in C&WG 2G Mobile Licence**

- 22.1 If the Licensee and any Other Licensed Operator fail to reach agreement within thirty days in respect of a request by the Other Licensed Operator for Access, and the Director General considers that such Access is essential as being the only economically feasible means by which a licensed Telecommunications Network can be installed or connected to the premises of a User or Subscriber, or over, under, in or across any public right of way or as being the only feasible means of avoiding material damage to the environment, the Director General may instruct the Licensee to allow, or to procure that the Licensee's Associated Company allows the Other Licensed Operator, Access on reasonable terms unless the Director General determines that the Licensee or the Licensee's Associated Company concerned, alone or with any other person willing or required to do so, is unable to grant the necessary Access, or that it would otherwise be unreasonable for it to do so.
- 20.2 Without prejudice to the foregoing Access provided under Condition 20.1 shall include but not be limited to the sharing by the Licensee of Telecommunications Equipment and Associated Facilities such as housing, masts, electricity supply etc with Other Licensed Operators within the Bailiwick.
- 20.3 The Licensee shall use its best endeavours to agree the terms of such sharing with Other Licensed Operators and if such agreement shall not be reached within times to be stipulated by the Director General, the Director General may direct the terms on which such sharing shall occur.
- 20.4 The licensee shall coordinate and cooperate with any other licensees licensed to provide public mobile telecommunication services with regard to the planning and development of any new mast sites or alterations to any existing masts sites and to share the use of any facility owned or used by it where it is in the public interest to do so.
- 20.5 In the event that the operators fail to reach agreement the Director General may determine the terms and conditions for such Access pursuant to this Condition, including provision for fair and reasonable compensation payable for the shared use of the facility if the parties fail to reach a commercial agreement.

Revised Access to Facilities Condition 22
in Wave Telecom 2G and 3G Licences

- 22.1 If the Licensee and any Other Licensed Operator fail to reach agreement within thirty days in respect of a request by the Other Licensed Operator for Access, and the Director General considers that such Access is essential as being the only economically feasible means by which a licensed Telecommunications Network can be installed or connected to the premises of a User or Subscriber, or over, under, in or across any public right of way or as being the only feasible means of avoiding material damage to the environment, the Director General may instruct the Licensee to allow, or to procure that the Licensee's Associated Company allows the Other Licensed Operator, Access on reasonable terms unless the Director General determines that the Licensee or the Licensee's Associated Company concerned, alone or with any other person willing or required to do so, is unable to grant the necessary Access, or that it would otherwise be unreasonable for it to do so.
- 22.2 Without prejudice to the foregoing Access provided under Condition 22.1 shall include but not be limited to the sharing by the Licensee of Telecommunications Equipment and Associated Facilities such as housing, masts, electricity supply etc with Other Licensed Operators within the Bailiwick.
- 22.3 The Licensee shall use its best endeavours to agree the terms of such sharing with Other Licensed Operators and if such agreement shall not be reached within times to be stipulated by the Director General, the Director General may direct the terms on which such sharing shall occur.
- 22.4 The licensee shall coordinate and cooperate with any other licensees licensed to provide public mobile telecommunication services with regard to the planning and development of any new mast sites or alterations to any existing masts sites and to share the use of any facility owned or used by it where it is in the public interest to do so.
- 22.5 In the event that the operators fail to reach agreement the Director General may determine the terms and conditions for such Access pursuant to this Condition, including provision for fair and reasonable compensation payable for the shared use of the facility if the parties fail to reach a commercial agreement.

Revised Access to Facilities Condition 23
in Guernsey Airtel 2G and 3G Mobile Licences

- 23.1 If the Licensee and any Other Licensed Operator fail to reach agreement within thirty days in respect of a request by the Other Licensed Operator for Access, and the Director General considers that such Access is essential as being the only economically feasible means by which a licensed Telecommunications Network can be installed or connected to the premises of a User or Subscriber, or over, under, in or across any public right of way or as being the only feasible means of avoiding material damage to the environment, the Director General may instruct the Licensee to allow, or to procure that the Licensee's Associated Company allows the Other Licensed Operator, Access on reasonable terms unless the Director General determines that the Licensee or the Licensee's Associated Company concerned, alone or with any other person willing or required to do so, is unable to grant the necessary Access, or that it would otherwise be unreasonable for it to do so.
- 23.2 Without prejudice to the foregoing Access provided under Condition 23.1 shall include but not be limited to the sharing by the Licensee of Telecommunications Equipment and Associated Facilities such as housing, masts, electricity supply etc with Other Licensed Operators within the Bailiwick.
- 23.3 The Licensee shall use its best endeavours to agree the terms of such sharing with Other Licensed Operators and if such agreement shall not be reached within times to be stipulated by the Director General, the Director General may direct the terms on which such sharing shall occur.
- 23.4 The licensee shall coordinate and cooperate with any other licensees licensed to provide public mobile telecommunication services with regard to the planning and development of any new mast sites or alterations to any existing masts sites and to share the use of any facility owned or used by it where it is in the public interest to do so.
- 23.5 In the event that the operators fail to reach agreement the Director General may determine the terms and conditions for such Access pursuant to this Condition, including provision for fair and reasonable compensation payable for the shared use of the facility if the parties fail to reach a commercial agreement.
- 23.6 The Licensee will use best endeavours to allow Other Licensed Operators to access its infrastructure. The Licensee will prepare a standard Access to Facilities agreement for use with Other Licensed Operators within three months of any request and a copy of the agreement will be filed with the Director General.

