



# Office of Utility Regulation

## Mobile Number Portability

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## Consultation Paper

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**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](http://www.regutil.gg)

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# 1. Executive Summary

Mobile Number Portability (“MNP”) is a service whereby a customer of one mobile telephone network may change network without having to change their mobile telephone number. It is recognised that mobile subscribers are reluctant to switch between operators if this requires them to also change their mobile number.

Changing telephone numbers carries a number of varying types of costs and these costs vary between different categories of subscribers. For example a small business, such as plumbers or electricians, may have their mobile phone as their principal means of contact and this number will be known to previous customers, suppliers etc. If this customer were to change number it may result in a loss of business, will have costs in printing new business cards/stationery, possibly re-painting business vehicles and other such costs. Therefore the customer concerned may be reluctant to change service provider even if they will incur lower calling charges if it carries with it such costs. Large business customers, with multiple mobile phones will face similar issues. Non-business customers equally may be impacted as family and friends would have to be informed of the number change.

Therefore the inability to retain one telephone number when switching mobile phone networks can be seen as a possible barrier to promote greater competition in the mobile market.

However enabling a service such as MNP carries costs. The scale of any such costs will be linked to the solution adopted should it be determined that MNP is required in Guernsey. Further studies from other markets where MNP has already been introduced highlight the maximum benefit gained for consumers where MNP is introduced in a manner which allows for swift changing between operators. Therefore in considering whether, and if so how, MNP should be introduced in Guernsey consideration of the actual solution will have a large bearing on the benefits gained for consumers. This paper sets out the DG’s preferred approach to further assessing the possible introduction of MNP in Guernsey.

While the DG is aware that there are various technical solutions that have been adopted by other markets to introduce MNP, he does not propose in this consultation to recommend any particular solution as he believes this is best considered in co-operation with industry. To this end, the DG proposes to recommend that Guernsey mobile operators work in partnership with their Jersey counterparts. Jersey’s mobile operators, in line with a direction from the Jersey regulator, the JCRA, have already established a working group and have made progress on some key issues associated with introducing MNP in Jersey.

The DG will consider further, in light of response to this paper, how best to further advance consideration of this issue. Clearly there are a number of practical issues that will need to be considered with regard to such joint working with Jersey. However the

DG does not believe, based on his understanding of these issues at this time, that these are insurmountable with co-operation from the parties involved.

*This document does not constitute legal, technical or commercial advice; the Director General is not bound by this document and may amend it from time to time. This document is without prejudice to the legal position or the rights and duties of the Director General to regulate the market generally.*

## **2. Structure of the Consultation Paper**

### **2.1. Structure of Consultation Paper**

The rest of this paper is structured as follows:

- Section 3: sets out the legal and regulatory background to the DG's consultation on MNP.
- Section 4: this section looks at the development of MNP in other jurisdictions and the degree to which MNP is being adopted;
- Section 5: sets out the DG's proposed approach to assessing further the introduction of MNP in Guernsey; and
- Section 6: sets out the next steps to be taken following this consultation.

### **2.2. Timetable for Responses to Consultation Paper**

Responses to this document should be submitted in writing and should be received by the OUR before 5.00pm on Monday 2<sup>nd</sup> April, 2007. Written comments should be submitted to:

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

Or by email to **info@regutil.gg**

In accordance with the OUR's policy on consultation set out in Document OUR 05/28 – "Regulation in Guernsey; the OUR Approach and Consultation Procedures", non-confidential responses to the consultation are available on the OUR's website ([www.regutil.gg](http://www.regutil.gg)) and for inspection at the OUR's Office during normal working hours. Any material that is confidential should be put in a separate annex and clearly marked so that it can be kept confidential. However, the DG regrets that he is not in a position to respond individually to the responses to this consultation.

## 3. Legal Background & Regulatory Framework

### 3.1. Legal Background

Section 2 of the Regulation of Utilities (Bailiwick of Guernsey) Law 2001 (“Regulation Law”) imposes a duty on the DG to promote, inter alia, the following objectives;

“

- (a) to protect the interest of consumers and other users in the Bailiwick in respect of the prices charged for, and the quality, service levels permanence and variety of utility services;...*
- (c) to ensure that utility activities are carried out in such a way as best to serve and contribute to the economic and social development and well-being of the Bailiwick*
- (d) to introduce, maintain and promote effective and sustainable competition in the provision of utility services in the Bailiwick.....”*

Section 5 of the Regulation Law provides the DG with the power to determine the licence conditions that may be included in a licence under which utility activities may be carried out. 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 he considers necessary to carry out his functions.

In 2001 the DG consulted on the general conditions to be included in the licences to be issued to mobile telecoms operators (OUR 01/03). This was originally carried out prior to the commercialization of the then Guernsey Telecom to ensure that on commercialization the company was properly licensed under the various utility laws to continue providing services in the Bailiwick. Following completion of the consultation the DG determined that the following condition should be included in Guernsey Telecom’s (now C&W Guernsey) licence;

#### *17. NUMBERING*

*17.1 The Licensee shall use only those Numbers that are allocated to it for the purpose of terminating Messages on the Licensed Mobile Telecommunications Network and shall comply with any directions concerning use and allocation which are issued by the Director General from time to time*

*17.2 The Licensee shall manage any Numbers allocated to it with a view to conserving Numbers as a public resource and shall maintain a record of the status of all Numbers allocated to it and on request, shall provide that information to the Director General*

*17.3 The Licensee shall not charge its customers for allocations of numbers except where authorised and in accordance with any direction from the Director General.*

***17.4 The Licensee shall comply with any directions issued by the Director General in respect of Number Portability. (emphasis added)***

In the licence ‘Number Portability’ is defined as

*““Number Portability”: means a service enabling a Subscriber to transfer his contract with the Licensee to another Licensed Operator within the Bailiwick and retain the same Number allocated to that Subscriber by the Licensee;*

Since 2001, the OUR has introduced competition to the mobile market and both Airtel and Wave Telecom are now licensed to provide mobile services in the Bailiwick. Both operators’ mobile licences contain similar conditions to that in the C&WG licence with regard to number portability.

It should be noted that the license condition relating to number portability are applicable to all operators, not just those that have been determined by the DG to be dominant in a relevant market. Therefore, in the event that it is determined to proceed with MNP all mobile operators will be required to participate to ensure all mobile customers benefit from its introduction.

Separate to the specific legal framework relating to MNP is the general regulatory framework within which the DG is expected to carry out his general duties and functions. Following a review of commercialisation in 2005, the States of Deliberation in May 2006 passed a number of resolutions relating to the manner in which regulation in Guernsey should be implemented.

Among these was a resolution<sup>1</sup> which stated:

*“(a) add a duty for the Director General of Regulation to “regulate in a way that is proportionate to Guernsey circumstances”;*

This resolution was proposed by the Commerce & Employment Department and the Treasury & Resources Department as sponsors of the review and was informed by a study undertaken by Europe Economics. Europe Economics in its report stated that:

*“The OUR should also be given an explicit duty, applicable to all three sectors, to have regard to the costs of compliance, and to adopt regulatory methods appropriate to the size of Guernsey.”<sup>2</sup>*

Clearly in taking forward this resolution, the DG must balance the various competing requirements on him in exercising his functions and powers. However it is clear that the

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<sup>1</sup> Extract from Resolutions passed by States of Deliberation in May 2006 – Billet X

<sup>2</sup> Page 15, Europe Economics Report, Billet X

States has an expectation that the DG will consider solutions for Guernsey on regulatory issues which are more creative in approach and therefore more tailored to the Guernsey market. This equally imposes an obligation on regulated companies to respond to the States expectations in this regard.



## 4. Introducing MNP in Guernsey

### Demand for MNP

As stated in the introduction to this consultation the availability of MNP is potentially a very important consumer benefit in the mobile market. The ability of a consumer to change mobile provider whilst retaining their number is clearly very attractive. A survey undertaken by the JCRA in Jersey found that a majority of residential (91%) and business users (88%) agreed that if they had to change their mobile number they would not change their mobile service provider. Given the similarities between the market in Guernsey with that in Jersey, and taking account of the development of MNP elsewhere, the DG has no reason to believe that consumer opinion in Guernsey would be very different from that in Jersey.

A review of developments in markets where MNP has been introduced highlights that demand for the service is growing. For example in Finland, 55% of mobile subscribers are using numbers that have been ported between mobile operators and in Denmark the figure is 27%. Across the EU, which has mandated MNP in the Universal Services Directive, the number of ported numbers doubled between 2004 and 2005, again highlighting that MNP is a service valued by consumers. In addition, the availability of MNP is being used as a bargaining tool by consumers with their mobile operator thus increasing the benefit to all consumers of MNP.

### Cost Benefit Analysis

As MNP has now been mandated in a wide number of countries, including all EU member states, Australia, New Zealand, Hong Kong and Jersey, Guernsey is in a position to benefit from the lessons learnt when assessing matters related to the introduction of MNP in Guernsey. Among the lessons learnt have been that<sup>3</sup>:

- The process must be fast (shorter than 5 days) and procedurally convenient;
- Successful MNP is based at least 80% on sound porting procedures and less than 20% on network routing solution;
- Operators find it difficult to establish adequate co-operation and pro-active involvement from the regulator can accelerate progress significantly;
- Procedure should be automated and standardise as far as possible with data being entered only once; and
- Excessive authentication of the porting request makes the procedure unnecessarily lengthy and complex.

Where these issues have been addressed the benefit to the consumer has been maximised. A study in 2006<sup>4</sup> found that prices fell and churn (the rate at which subscribers switch

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<sup>3</sup> Source: A framework for implementing Full Mobile Number Portability in Ireland; Ovum for the ODTR, May 2001

<sup>4</sup> Measuring the Benefits of Mobile Number Portability, Sean Lyons, Department of Economics, Trinity College Dublin, July 2006.

mobile operators) increased in markets with a five day or better MNP delivery standard. Average prices fell by around 7% per minute in the short run and by 12% in the long run with the quarterly average churn rate of over 13% in the short run. A further study in 2006 found that even though there are both direct and indirect costs of introducing MNP, virtually all cost-benefit studies have concluded that the overall benefits of MNP outweigh the costs<sup>5</sup>.

However as with all regulatory solutions, there is a trade-off to be made between costs and benefits from introducing a regulatory solution that may require investment by operators – both in terms of equipment but also in additional processes and procedures. It is therefore important that in assessing whether to introduce MNP in Guernsey that consideration is given to the costs as well as the benefits. While the studies referenced above would indicate that the net effect should be positive, clearly the actual outcome will be based on the technical solution employed and the degree to which the processes and procedures are streamlined to make the availability of MNP an attractive solution for consumers.

The DG believes that to properly consider the cost-benefit of MNP, a key input is the technical solution that is proposed to be adopted to facilitate the service. At this time however the DG does not intend to propose any specific technical solution. This is the case for a number of reasons.

First, any technical solution may be very different depending on whether it is intended solely for the Guernsey market or whether a solution that is adaptable to both the Guernsey and Jersey markets is proposed. The DG is mindful of the current industry working group in Jersey and the work that it has already undertaken on MNP and the fact that certain parties to that working group have expressed an interest to the DG in a joint solution being pursued.

Second, the degree to which any technical solution is scaleable to the market size in Guernsey (or Guernsey and Jersey should that be considered reasonable) will clearly have cost/benefit implications.

Third the DG believes operators will need to consider whether a similar solution in Guernsey and Jersey (whether implemented individually or jointly) is a more pragmatic approach given that internal company procedures and processes will need to be implemented to facilitate MNP. Clearly given the nature of the mobile providers in both jurisdictions, the added burden of two separate, and possibly different, sets of processes and procedures would appear to the DG to be unnecessarily complicated and this element of the equation alone would appear to the DG to enhance the attractiveness of a joint approach.

Finally the DG has taken no view on the functionality that any technical solution should seek to have and as a consequence any cost benefit analysis at this time would be meaningless. He believes that following from work by an industry group comprising the

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<sup>5</sup> Mobile Number Portability in Europe, Buehler, Dwenter and Haucap, 2006

mobile operators (with OUR participation) further consideration can be given to this aspect at this time should it be necessary. The DG does however note that MNP was simply mandated in EU markets by the European Commission and that no real cost benefit analysis has been undertaken prior to the introduction of MNP in most markets. Similarly in Jersey the majority of operators in that market appear to support introducing MNP without the need for detailed cost benefit analysis. The DG has however already pointed to research which would appear to support the view that MNP provides a net benefit to consumers given it removes a clear barrier to switching, which is a key factor in developing effective competition.

### **Proposed Approach to Considering MNP**

In August 2006 the DG wrote to all mobile operators in Guernsey (Airtel, C&WG and Wave Telecom) seeking their agreement to explore the possibility of introducing MNP in Guernsey in conjunction with the work already underway in Jersey.

By way of background, in 2006, the JCRA, the Jersey regulator, had mandated that mobile operators in Jersey were to work towards the introduction of MNP in Jersey, using best endeavours to have it in place by 1<sup>st</sup> January 2007 but in any event by 31<sup>st</sup> March 2007. The JCRA as part of the direction to its licensees established an industry working group to address the practical and technical issues associated with MNP.

The OUR, following discussions with the JCRA during 2006, believed there would be merit in Guernsey and Jersey exploring whether joint-working on this project may result in greater benefits to consumers in both jurisdictions and lower implementation costs for the mobile operators in both markets. As a result the OUR canvassed support for operators in Guernsey joining the JCRA led working group in Jersey.

It should be understood that the operators in Jersey (Airtel Jersey, C&W Jersey and Jersey Telecom) all have interests in Guernsey and vice versa. Further the OUR understands that the representatives of the Jersey mobile operators at this working group included among them certain company representatives that would be included in any Guernsey-based working group on MNP should one be established. In short the same personnel, albeit wearing different hats, have already been involved in examining MNP in Jersey as would be required to examine MNP in Guernsey.

On 4<sup>th</sup> August 2006 the OUR wrote separately to Airtel, C&WG and Wave Telecom seeking their support for the proposed approach. That letter stated that both regulators (the JCRA and the OUR) saw clear advantages of such an approach in terms of benefiting from:

- economies of scale and the sharing of costs across both markets;
- avoiding the duplication of mobile operator's staff time to implement MNP in Jersey and then in Guernsey, as essentially the same staff would be involved in the two Bailiwicks; and
- the facilitation of competition in efficient manner to the benefit of end-users.

Consequently the OUR and JCRA were keen to adopt a joint approach. Both Airtel and Wave Telecom supported in principle the proposed approach. C&WG objected to a joint approach for a number of reasons including:

- the OUR had not followed its standard consultation procedures to determine whether there was demand for MNP,
- it did not accept that any demand had been demonstrated for MNP; and
- it did not share the OUR's belief that there were the same benefits to be gained from joint working with Jersey.

While the DG has noted this opposition, he does not accept it as valid. The States of Guernsey has clearly expressed its desire for more proportionate approaches to regulatory solutions to be adopted where possible. Further the DG is aware of a general view that closer working between the OUR and its counterpart in Jersey may be advantageous to both jurisdictions and in particular to consumers in both jurisdictions. While the DG accepts that the OUR must follow the regulatory laws which govern the OUR with respect to regulatory matters, he believes that this does not preclude joint working on specific issues where to do so may result in a more cost efficient and proportionate solution to regulatory issues than might otherwise be the case.

This proposed approach in the DG's view is a proportionate way of assessing MNP.

The rationale for this approach is simple: there continues to exist a window of opportunity for a joint approach to take place. Delaying a joint approach may result in both Islands failing to obtain maximum benefit from any joint working. The DG is mindful that the JCRA has already determined that MNP should be introduced in Jersey in a short timescale (although he is aware that this process is currently delayed). The DG therefore believes, given the narrow issue now being consulted upon and the timing issue referred in this paragraph, that a shorter consultation period is appropriate on this occasion. Therefore the consultation period will run until 2<sup>nd</sup> April 2007.

The DG is proposing in this consultation that:-

- the possible introduction of MNP in Guernsey be considered in tandem with the development of MNP in Jersey;
- Guernsey mobile operators (Airtel, C&WG and Wave Telecom) join the Industry Working Group established by the JCRA in Jersey to consider how the work undertaken in Jersey may assist the consideration of MNP in Guernsey;
- The OUR will also become a party to the Working Group at steering group level;
- Following the output from the Industry Working Group the OUR will consider further what regulatory action is required. One possibility is that should the Industry Working Group agree on a technical solution for the introduction of MNP in both Guernsey and Jersey it may be that further direct regulatory involvement would be unnecessary. The DG is mindful that MNP is a service that relies on close co-operation between operators on processes and procedures.

The DG wishes to make it clear that he believes that MNP, based on experience from other markets, has the potential to bring benefits for consumers if it can be implemented efficiently and in a manner that reflects the challenges of markets such as Guernsey and Jersey. The onus would therefore be on operators to demonstrate that they can, without excessive regulatory intervention, operate in a manner that reflects the States desire for light touch regulation and in a pragmatic and common-sense way.

The DG has set out in Annex A a number of matters upon which he is seeking feedback to further inform his thinking on this matter.

## **5. Next Steps**

The DG is consulting on this matter so that he can further inform his thinking on how best to further consider the possible introduction of MNP. The DG is of the view that, implemented in the correct manner, MNP has the potential to benefit consumers and help promote further competition in the mobile market.

However, as he has highlighted, the closer working between operators on processes and procedures, as well as any technical solution, is required. The DG will consider whether, and if so how, MNP might be introduced in Guernsey for the benefit of consumers.

Interested parties are requested to provide responses to this consultation paper by 2<sup>nd</sup> April 2007. Following consideration of those responses the DG will publish details of his consideration of these issues and what further action, if any, is required.

**ENDS**

## **Annex A. Questions for Interested Parties:**

*Q.1 Do you believe that MNP, if it can be introduced in an efficient manner, can have benefits for consumers in Guernsey? If not please give your reasons for why you believe otherwise.*

*Q.2 Do operators believe there is demand for MNP in Guernsey either from consumers or from operators? Operators will be aware of the findings of the JCRA assessment of the demand for MNP in Jersey. Operators are asked to comment on whether they believe similar results could be expected in Guernsey and what criteria they propose is met to any assessment of the material demand for MNP in Guernsey.*

*Q.3 Do you agree with the DG's proposal that a joint approach with Jersey is likely to be the most cost-effective way of exploring further the introduction of MNP? Please give your reasons for why you believe this and if not why a joint approach is not appropriate?*

*Q.4 Do operators believe it is practical to co-operate with the JCRA led industry working group? Views on any practical matters which may impede such an approach would be welcome along with observations on how such issues might be overcome.*

*Q.5 Do operators believe that the initial focus on seeking to introduce MNP should consider the work already undertaken by the JCRA as a sensible starting point? Respondents are invited to suggest alternative solutions that they believe should be considered and that would in their view be workable solutions for introducing MNP in Guernsey?*

*Q6. What timescale do Respondent believe is appropriate for the introduction of MNP in Guernsey given operators knowledge and understanding of the processes and procedures that may need to be implemented?*