



COMMENTS ON

OUR DOCUMENT 08/15

REVIEW OF C&W GUERNSEY'S WHOLESALE

BUSINESS

1ST SEPTEMBER 2008

1 INTRODUCTION

The Office of Utility Regulation ("OUR") published its review of C&W Guernsey's ("C&WG") wholesale business OUR 08/09 "Review of C&W Guernsey's Wholesale Business" which was responded to by Guernsey Airtel ("Airtel"), C&WG and Wave Telecom ("Wave"). The OUR has now issued its Draft Decision Document OUR 08/15 which sets out the views of respondents and the Director General's ("DG's") consideration of these views.

Wave stated in its response to the consultation document¹ that it was encouraged by the outcome of Regulaid's work having raised concerns for some time on the service level and lack of service equivalence received from C&WG. Wave is disappointed with the installation timescales proposed and makes comments on the Draft Decisions in section three. At section four comments are made on recommendations initially made by Regulaid which have not been included as draft directions together with Wave's view on these points.

2 EXECUTIVE SUMMARY

- 2.1 Wave is disappointed that the installation timescales proposed by Regulaid will not be achieved sooner and is surprised by C&WG's explanation on why their leadtimes are likely to be typically longer than other operators. Wave is also somewhat concerned as to what installations will fall outside of standard leadtimes and be classified as "bespoke services".
- 2.2 C&WG have proposed a change to the wholesale leased line order process to allow the wholesale customer to request earlier delivery, should it prove possible. While Wave is happy to work with this new process, it reserves the right to raise the issue of a formal expedite facility again if this process does not work in practice.
- 2.3 The quarterly publication of C&WG's KPIs will allow the OUR and Other Licenced Operators ("OLOs") to view C&WG leased line performance for the first time thus allowing the Industry to evaluate wholesale alongside retail delivery.
- 2.4 Wave welcomes the proposed increase in penalty payments where the penalties are greatest while C&WG's delivery targets are longer and equal to C&WG's retail penalties when the targets are lowered to the levels recommended by Regulaid.
- 2.5 Finally, Wave view it as essential that OLO's have equivalence in terms of the leased line products available to them and requests that the DG enforces this requirement to ensure that C&WG provide a wholesale on-island equivalent of any off-island retail leased line they offer.

3 COMMENTS ON THE DRAFT DECISION

3.1 Draft Decision 1 - Leased Line Provisioning Process

Wave agrees with the OUR's Draft Decision that OLOs should be informed of the Ready For Service ("RFS") date at the same time as the order acknowledgement and that targets should be for 100% of orders with the exception of orders that require the installation of new fibre.

¹ OUR 08/09 [Wholesale Review of Cable and Wireless's Business](#)

However, Wave is disappointed that the installation timescales proposed by Regulaid will not be achieved sooner. The OUR has proposed that installation targets be reduced from the existing 20 days for 2Mbit/s and under and 60 days for over 2Mbit/s to the following timescales:-

	Existing Target	01/01/09 – 31/12/09	01/01/10 – 31/12/10	01/01/11 onwards
Up to and including 2Mbit/s	20 business days	15 business days	15 business days	10 business days
Over 2Mbit/s	60 business days	40 business days	25 business days	15 business days

Wave is concerned that it will have to wait over 2 years for the timescales to be reduced to the level recommended by Regulaid and the levels that Wave has been pushing for since 2006. Wave formally raised concerns with regard to C&WG's provisioning leadtimes in March 2007 as part of its response to the OUR's consultation on Wholesale leased line pricing². However, Wave and other OLOs requested shorter provisioning times at the C&WG Wholesale Leased Line Working Group in 2006. It should be noted that until 2006, C&WG's standard provisioning retail lead-times for leased lines over 2Mbit/s was 45 working days. The retail SLA was changed in the summer of 2006 to match the wholesale SLA of 60 working days after requests by OLOs in the Wholesale Leased Line Working Group to reduce the leased line installation timescales. C&WG stated that they would not be able to match retail provisioning times of 45 days and consequently change the retail SLA to 60 days to match the wholesale SLA!!

3.2 Comments on Annex – C&WG's submission on factors that affect the ready for service date

The installation targets proposed are for standard installation and do not include "bespoke services" where if there is no network in place then the order falls outside of these installation timescales. Wave are however, somewhat concerned with C&WG's comments on page 6 of their response where they state "thus implementations of leased lines are usually bespoke end-to-end installations, particularly for above 2Mb LAN service and lead times are likely to be typically longer than those operators with different network configurations."

Wave would agree with the OUR that "greater clarity is required around which orders for leased lines are subject to these targets and which fall under a category of what might be termed bespoke service".

The Annex to the Draft Decision provides C&WG's description of the factors that affect the RFS date. Firstly, Wave Telecom appreciates that the factors listed by C&WG will have an impact on advising the customer of the specific date when their service will be installed but should have no impact on the ability to meet standard delivery timescales. Wave's comments on the Annex are broken into two parts; the C&WG network and customer site issues.

² OUR 07/01 [Reviewing C&W Guernsey's Wholesale Leased Line Prices consultation paper](#)

3.2.1 C&WG's Network

As the incumbent telecommunications provider in the island of Guernsey, C&WG has been providing leased lines for many many years. In that time they have established an extensive duct network to enable them to provide leased line services to a large part of the island but especially concentrated on the main business districts. As the incumbent they have a responsibility to deliver services to retail and wholesale customers in standard leadtimes, currently 60 days for circuits over 2Mbit/s and 20 days for circuits of 2Mbit/s and under. As part of that responsibility they have to manage their network, which means ensuring their duct network is capable of meeting the demands of the Bailiwick of Guernsey and ensuring they have plans in place to be able to meet the vast majority of leased line orders in standard leadtime. This encompasses holding a reasonable level of stock for fibre, copper cable, NTP connections, access equipment cards and the like and that exchange equipment is in place to meet forecasted demands. As a provider of leased line services the components detailed above and listed in the Annex to the Draft Decisions should not need to be "taken into account" by C&WG but they should be a given of providing leased line services to meet their installation leadtimes.

In Jersey, Jersey Telecom's only acceptable explanation for not being able to provide leased line services in standard leadtimes is where there is no physical duct network in place or there is no capacity available in the existing duct. An excuse that the stock holding of NTPs has run out is not acceptable and simply would not be used by Jersey Telecom as a reason for not being able to provide service to a customer in standard installation times.

3.2.2 Customer Site

The second part of the Annex relates to the set up of the customer site. While Wave agrees that the issues identified by C&WG can happen and have to be considered, it would not be reasonable for a delay by the customer to count against C&WG's standard leadtime. Wave believe that any retail or wholesale customer would not expect C&WG to deliver on their standard leadtimes if a delay by the end customer, which was totally out of the control of C&WG, resulted in a leased line missing the target delivery date.

In conclusion, Wave is somewhat surprised that C&WG have such a limited network. It is therefore recommended that the OUR request network drawings from C&WG and has them independently reviewed to confirm if there is any weight in C&WG's argument that "in Guernsey the amount of active equipment deployed in customer sites is limited. Thus implementations of leased lines are usually bespoke end-to-end installations, particularly for above 2Mb LAN services and lead times are likely to be typically longer than those operators with different network configurations."³

As previously stated, it is absolutely vital that changes are made to the leased line provisioning times to bring them into line with comparable operators and make them fit for the market and customer expectations. Wave would have liked to see shorter installation targets phased in much sooner than proposed in the Draft Decision.

³ Page 6, paragraph 1 C&WG Response to Review of C&W Guernsey's Wholesale Business

3.3 Draft Decision 2 – C&WG to publish KPIs

Wave agrees with the Draft Decision that C&WG should publish KPIs on a quarterly basis commencing on the first quarter of the calendar year 2009 covering the last quarter of the calendar year 2008. It is a sensible approach for the KPIs to be available for the first year to OLOs and the OUR and are thereafter publicly available on C&WG's website.

Wave is comforted by the fact that should there be any question as to the accuracy of the KPI figures published by C&WG then the OUR has the powers to audit the figures. Consequently, Wave agree that this negates the need for an independent auditor.

3.4 Draft Decision 3 - Penalties for Poor Performance

There appears to be an error in the OUR's Draft Decision on compensation payments. The calculations in the table below demonstrate that the proposed compensation payments in year 1 and year 2 are worse than the compensation payments proposed in year 3.

Calculations in the table below are based on a 2Mbit/s same exchange leased line at a wholesale annual rental of £1,288.

	Compensation Proposed	Calculation for 1 day delay	Calculation for 10 days delay
Year 1	100% of daily rental	£3.50	£35
Year 2	50% of daily rental	£1.76	£17.60
Year 3	25% of monthly rental for days 1-5 50% of monthly rental for days 6-10 100% of monthly rental for over 10 days	£26.83	£53.66

In the Draft Decision document, the OUR states that "the principle the DG proposes to adopt is that failure to meet the more relaxed delivery targets attract higher penalties, and as delivery targets are improved, the penalties are reduced." The OUR's Draft Decision does not in effect provide this, and for that reason it is assumed that there is a typographical error in year 1 and year 2 and the word "monthly" should replace the word "daily".

If the assumption that for years 1 and 2 the compensation should be 100% of the monthly rental and 50% of the monthly rental respectively, does the DG propose that this payment should be made for each day in which the service is delayed or faults remain outstanding? Does the DG propose a maximum limit of payments?

Penalty payments must be sufficient to deter the wholesale leased line provider from missing agreed timescales. However, if deadlines are missed it's the end customer that suffers and can then not conduct their business. Consequently, penalty payments have to be of a level that acts as a deterrent but ultimately unless they are punitive, they are worthless.

3.5 Draft Decision 4 – Option of Paying One off Cost to Upgrade

Wave agrees that retail and wholesale customers will benefit from being given a choice when upgrading by either paying a one off cost based fee or a new minimum contract term.

There are two scenarios when upgrades happen:-

- There is no change to the bearer circuit size and the request is for a circuit speed change only. Wave recommends that in this scenario, there is an administration charge for the speed upgrade and the contract term continues from the old service to the new service.
- If the upgrade is to a different type of circuit i.e., the customer is moving from a 2Mbit/s to a 10Mbit/s ethernet service then Wave believe that it would be fair for C&WG to charge the remainder of the contract term on the 2Mbit/s circuit and for the minimum term to start again on the 10Mbit/s ethernet service.

C&WG's argument that creating a one off charge is a backward step is contradictory to the fact that C&WG provide shift charges for certain circuits which it is assumed is based on the cost of the work to move a circuit. Wave do not agree that an upgrade charge is confusing for customers. Jersey Telecom charge an upgrade charge for certain leased lines for both retail and wholesale customers and these charges have never been viewed as confusing.

3.6 Draft Decision 5 – Notification Period for Price Changes

Wave agrees with the DGs Draft Decision to notify all wholesale price changes to the wholesale customer 30 calendar days prior to the change coming into effect. Wave is however, based on past performance, unconvinced that C&WG will follow this process fully.

3.7 Draft Decision 6 – C&WG Wholesale & Relationships Position

Wave agrees with the Draft Decision that C&WG should create a sales and relationships position. In fact, C&WG's response to the consultation document would suggest that such a position has been created but will report to the Director of Legal and Regulatory Affairs. Wave has no issue with the reporting line suggested by C&WG.

4 PROPOSALS PUT FORWARD IN CONSULTATION DOCUMENT NOT DIRECTED ON BY DIRECTOR GENERAL

All the parties involved in this review have invested significant time and effort and Wave would not like to see this effort wasted with some areas not thoroughly actioned. This section of the document provides Wave's opinion on the recommendations put forward by Regulaid, which are not included in the DG's Draft Decisions.

4.1 Expedite Facility

Regulaid recommended that C&WG should offer an expedite service to OLOs and its own retail arm. The expedite facility would allow orders to be fast tracked through the system therefore giving wholesalers confidence that a portion of leased lines can be installed in a shorter period. In its Draft Decision the OUR has not directed on an expedite service and has stated that the "introduction of

an expedite service is less of a priority for the present and he does not propose the introduction of such a facility in this Draft Decision.”

C&WG in their response to the consultation do not agree that it is appropriate to introduce an expedited service option. C&WG have indicated that they are “proposing to ask if the wholesale customer would want earlier delivery, should it prove possible, as an option at the start of the application process in a mandatory field”. While Wave welcomes this approach by C&WG and will work with this new process, it would respectfully request that should this process prove to have flaws or not provide an opportunity for orders to be processed quicker, Wave will raise the issue again with the OUR.

4.2 Liaison between C&WG and OLOs

Wave is encouraged by C&WG's response to the holding of regular quarterly meetings to discuss leased line issues and can confirm that one meeting has been held so far. Wave would like to see this kind of dialogue continuing, as it should help to forge a stronger relationship between the parties.

Wave sees value in an industry forum when major network changes are being considered, for example the recent NGN meeting, however, such meetings can be arranged on an ad hoc basis.

4.3 Mandated Wholesale Products

While Wave agrees in general with the DG's position on this point, it is vital that OLOs are able to replicate C&WG's retail leased line offerings. To do this they would require an on-island wholesale equivalent of any off-island retail leased line offered by C&WG. An example of where no on-island equivalent is available is, C&WG offer a 155Mbit/s half circuit to the UK utilising the HUGO cable. If an OLO wished to provide a similar circuit to its customers it would require an on-island 155Mbit/s circuit to connect in to its own network to carry it off-island. However, C&WG do not offer a wholesale or for that matter a retail 155Mbit/s on-island circuit. While Wave appreciate that at the current time there may not be much demand for this speed of circuit, the requests for higher bandwidth circuits is increasing and Wave would like to be in a position where, should a quotation request be received, it can then respond to it quickly. It is noteworthy to mention that Wave requested that C&WG include a 155Mbit/s on-island leased line in the wholesale portfolio on 14th February 2003 at the same time that it requested an on-island 45Mbit/s circuit. At the time, C&WG stated that these products were currently being developed and they would be available later that year. Wave had hoped that Regulaid's review would deal with this issue of wholesale / retail equivalence as it is crucial to enable OLOs to compete for off-island capacity.

Consequently, Wave would respectfully request that the DG direct C&WG to create an on-island wholesale equivalent of any off-island retail leased line offered by C&WG.

Addendum – Draft Decision 3 – 12/09/08

Draft Decision 3 under section 5.3 of the Review of C&WG's Wholesale Business proposed the following:

“For each day beyond the target date for delivery or fault repairs for leased lines, bitstream service, or any other wholesale service, C&WG should pay:

*In Year 1 (commencing 1 January 2009), 100% of the daily rental charge;
In Year 2 (commencing 1 January 2010), 50% of the daily rental charge;
From Year 3 onwards (commencing 1 January 2011), 25% of the monthly rental charge for delays of 1-5 days, 50% for delays of 6-10 days and 100% of the monthly rental charge for delays of over 10 days.”*

C&WG will initiate all penalties for which it is liable under this Direction.

The Director General's intention was that the structure of the penalties was greatest while target dates were longest and vice versa. It has become clear that the structure of the penalties does not achieve what was intended and to remedy this, the Director General proposes to amend Draft Decision 3 as follows:

“For each service that does not meet the target date for delivery or fault repairs for leased lines, bitstream service, or any other wholesale service, C&WG should pay:

*In Year 1 (commencing 1 January 2009), 100% of the monthly rental charge;
In Year 2 (commencing 1 January 2010), 50% of the monthly rental charge;
From Year 3 onwards (commencing 1 January 2011), 25% of the monthly rental charge for delays of 1-5 days, 50% for delays of 6-10 days and 100% of the monthly rental charge for delays of over 10 days.*

For every 30 day period after the target date the same penalty will be repeatedly incurred while the service remains undelivered. C&WG will initiate all penalties for which it is liable under this Direction.”

Wave's Response:-

Wave is in full agreement with the proposed amendment to Draft Decision 3 detailed above.