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14 October 2008

Dear John,

MOBILE REVIEW

Thank you for your letter dated 8 September 2008 in which you provided clarification on the process the OUR envisages in the event that C&W Guernsey releases 900 MHz spectrum as suggested in the consultation document.

As we discussed in our meeting on 4 September 2008, C&W Guernsey is not opposed to the surrendering of some 900 MHz spectrum but we felt there was a lack of clarity as to the steps the OUR was considering taking as regards the allocation of the 900 MHz spectrum that would be released and also the allocation of other spectrum (on which the consultation paper was silent and in which C&W Guernsey expressed an interest particularly in respect of 2100 MHz). Your letter clarified that spectrum, whether 900 MHz, 1800 MHz or 2100 MHz will not be licensed without further consultation and a competitive process of some form. We are still unclear what is meant by such a competitive process, and whether that would be a competition between the existing licence holders, or would be part of a competition to introduce yet another licensed operator to Guernsey. As you are aware, and as stated in our response, we do not believe there is the market or potential market for a further mobile licence holder. You also mention ongoing discussions between the OUR and the relevant States Departments, which C&W Guernsey welcomes as we recognise the need for regulation in the Bailiwick to support States objectives and policies.

We note and welcome that the OUR recognises that the process to surrender some 900 MHz spectrum would take some time, however, we cannot confirm whether six months, as mentioned by the OUR, would be sufficient without significant investigation. As we stated in our response to the consultation, we are concerned that we would incur considerable cost in undertaking such an exercise. We would welcome the opportunity to further discuss this, together with other connected issues raised in our response such as the potential impact on the quality of service and inconvenience for customers in more detail should it be decided that the surrender should go ahead.

In your letter you asked if there is any aspect of our response to the Mobile Market Review that we may wish to amend. The original wording of the C&W response did not say that we refused to surrender 900 MHz spectrum as that was not and is not our position. However we have taken the opportunity to state more clearly that we would surrender 900 MHz spectrum, if it is required by the OUR after the full consideration by your Office of the matter. Hence a revised section 2.5.1 is attached as appendix 1 and the original section 2.5.1 should be deleted.

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We look forward to the publication of the OUR's final decision and the amendment of our Mobile Licence to enable C&W to offer 3G services on a technology neutral basis.

Kind regards

A handwritten signature in black ink, appearing to read 'P. Stahelin', with a long horizontal line extending from the end of the signature.

PETER STAHELIN
Director of Legal & Regulatory Affairs, CI and IOM

2.5.1 Surrender of some 900MHz spectrum

The OUR is considering whether C&W should be required to surrender some 900MHz spectrum based on whether C&W would be in a position of material competitive advantage if it retains its full allocation of spectrum. Given that Wave has rolled out its 3G network over the last four years, and also has been allocated EGSM spectrum, and Airtel launched its 3G services some months ago and heavily promotes its mobile broadband capability we cannot see that C&W would be at a material competitive advantage. The OUR highlights the fact that both operators have rolled out their networks utilising 3G, 1800 GSM and/or extended EGSM spectrum in the Consultation Report.

We note however that the report is silent as to the 1800 and 2100 spectrum utilised by the other operators.

If the OUR concludes that C&W is at a material competitive advantage and requires it to surrender 2 x 5MHz of 900MHz spectrum at this stage, C&W would not raise any objection. However we do highlight several significant issues below that would need to be considered should such action be taken. We understand that before the surrendered 900 MHz spectrum was awarded to another operator the OUR will continue discussions with relevant States departments so as to ensure that regulatory actions are compatible with and support States strategy and policy. Also there would be further consultation and a competition of some form. The OUR must also consider awarding further 2100 and 1800 MHz spectrum. C&W wishes to express an interest in being awarded 2100 MHz spectrum in particular for reasons given below, and would expect to also participate in any competition for 1800 MHz spectrum as well.

Contrary to being at a competitive advantage, C&W would continue to be at a disadvantage if it were not awarded some 2100MHz spectrum. We have what might be a unique situation in the Channel Islands whereby each of the three licensed telecommunications operators in Guernsey is a member of the same group of companies as one of the three licensed operators in Jersey. Each counts customers as being on-net when on the network of their sister company in the other island. The effect of this is that all companies already have a range of pan-island tariffs, as well as any island specific tariffs or promotions.

Airtel has launched 3G in both Guernsey and Jersey using 2100MHz spectrum, as has Wave so both operators can offer continuity of 3G service throughout the Channel Islands. C&W's sister company, C&W Jersey has launched 3G services using the 2100MHz spectrum licensed to them, but their customers will not be able to use 3G services on the C&W Guernsey network as their handsets will not be 900MHz compatible. Similarly visiting 2100MHz roamers will not be able to use the C&W 900MHz service for 3G roaming.

C&W is concerned that the use of 900MHz spectrum for 3G services is very new worldwide and such use would be recognised as leading edge as far as UK (and indeed Europe) spectrum management is concerned. C&W can technically deliver 3G services on its allocated 900MHz spectrum with its current mobile vendor, but the UK default is currently 2100MHz. There is a risk that the usage and technology will not 'catch on' and the handset manufacturers will not invest in the mass production of handsets that use that frequency for 3G services. There are no guarantees that should C&W solely use 900MHz for 3G that the UK will also follow and vendors may

optimise their product ranges to suit dominant UK mobile spectrum only i.e. 2100MHz. Furthermore developments to 4G/LTE (Long term evolution) cannot be guaranteed at 900MHz. That is, a situation could arise similar to the 'Rabbit' telecommunications service which flopped in the early 1990s, or in another industry, the better known Betamax video recording system which was not supported in competition to VHS. Therefore C&W requires 2100MHz spectrum to ensure it can continue to develop and deliver mobile services to its customers/market.

We note that the DG proposes to engage with industry separately to this mobile review on the issue of the surrendering of 900MHz spectrum. We would urge that the OUR recognise the wider implications of such an engagement as any consideration of the use of spectrum has to involve all of the Channel Island operators, the licensing authorities in France as well as the OUR, JCRA and Ofcom. We have attached at confidential Appendix 1 a copy of a previous Memorandum of Understanding (MoU) signed by the three regulators. We would expect the OUR to consult and discuss with the JCRA and Ofcom any revision of the MoU and consideration of spectrum frequency management cannot be undertaken solely as regards Guernsey. Presumably if the outcome is the requirement that C&W surrender spectrum to Ofcom it would have implications in the UK which should also be considered at the time of the review.

Another aspect of the surrender of 900MHz spectrum which must be considered by the OUR is of compensation to C&W for releasing spectrum. Guernsey Telecoms Limited (GT) was allocated the whole of the 900MHz range and since that time the very significant investment and development by both GT and C&W has been into that spectrum. As far as we know there is no precedent for the imposed surrendering of spectrum (although Ofcom is seeking to re-allocate spectrum in the UK) so the matter of compensation has not yet been fully considered and answered.

A final consideration regarding the surrendering of 900MHz spectrum is that C&W would have to undertake a full frequency planning exercise at considerable time, cost and disruption including assessing whether there would be any degradation of the current service. Full drive tests pre and post the change would be required for voice and data services. The costs and effort in undertaking this exercise, as well as any impact on customers and other interested parties, would also have to be taken into account and there must be consideration of the risk of degradation of service.

In summary, C&W would be prepared to surrender some 900 MHz spectrum should the OUR decide that is the right course of action having fully considered and taken account of the matters raised above and any other relevant issues, including the potential costs and disruption. In any event the issue of the surrendering of 900MHz spectrum should not delay the amendment of mobile telecommunications licences to make them technology neutral and allow all licensed operators to offer 3G services to the consumers.