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

08 January 2009

For the attention of Mr John Curran – Director General

Dear John,

“Mobile Market Review – Draft Decision “- Guemsey Airtel Limited Response

With reference to the Draft Decision document published by the OUR to outline the findings of the recent Mobile Market Review Consultation, Guemsey Airtel Limited (GAL) is pleased to provide our response.

GAL believe the findings and proposals contained in the OUR draft decision fairly represent the various views of the respondents and GAL is encouraged that the OUR's findings and recommendations align with many of the comments made in GAL's original response dated 07 August 2009. Consequently, GAL broadly supports the key findings and proposals made by the OUR in the draft decision.

GAL supports the principle of technology neutral licencing and does not oppose the proposal to allow the incumbent to secure a 3G capability in the Bailiwick of Guemsey. However, GAL must reiterate its insistence that the outcome of the Mobile Market Review must effectively address the clear imbalance between the existing mobile operators and create a true and sustainable level playing field to the benefit of consumers and operators alike. In particular the Mobile Market Review should address the existing key imbalances between the existing operators in terms of spectrum allocation, mobile termination rates, site sharing charging and licence fees.

GAL concur that a key outcome of the Mobile Market Review should be the linkage of the release of existing 900MHz 2G spectrum by the incumbent to the corresponding award of 2100MHz 3G spectrum to the incumbent. Currently, GAL has not been allocated any 900 MHz spectrum and sees this as serious operational and competitive disadvantage since both its competitors are able to leverage benefits from their 900MHz spectrum allocation. As a result of the Mobile Market Review, GAL would seek and expect to be granted a minimum of 5MHz (5MHz uplink and 5MHz downlink) of the released 900MHz spectrum. GAL would be able to deploy the infrastructure necessary to utilize the allocated 900MHz spectrum relatively quickly and this would enable GAL to significantly enhance its 2G coverage and potentially reduce the need for further network expansion. Clearly GAL is keen to adopt opportunities to enhance its service delivery and quality which minimize the need for additional sites and the corresponding impact on the Guemsey environment.

Following the positive resolution achieved by the OUR and Jersey Competition Regulatory Authority (JCRA) in securing agreement with all mobile operators to launch Mobile Number Portability (MNP) simultaneously in Guemsey and Jersey



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On 01 December 2008, GAL firmly believes that a similar approach is appropriate to address the potential conflicting requirements from the existing operators for spectrum allocation.

GAL would suggest that the OUR ensures the potential awarding of 2100MHz 3G spectrum to the incumbent occurs on the same date that the released 900MHz 2G spectrum is allocated to GAL and other operators.

We believe that the OUR's decision not to streamline the decision process in this case and to continue with the proven three stage approach (Consultation, Draft Decision, Decision) is completely appropriate .

GAL would like to offer the following comments regarding the specific areas identified in the OUR draft decision document :-

MTRs

In the original GAL response, GAL argued strongly that Mobile Termination Rates (MTRs) in Guernsey were excessive when benchmarked against similar jurisdictions and the global market trends. GAL believe that current MTR charging constrains competition and the expansion of cross-network tariff products which enhance consumer choice and value. However, in the circumstances, GAL welcomes the commitment to undertake a re-assess MTRs within a full review of interconnection charges during early 2009. GAL will fully support the proposed review and is satisfied that the issue of MTRs can be treated separately from the outcome of this Mobile Market Review.

Site Sharing/ Environmental Concerns

GAL believes that there is merit in exploring the potential for establishing a central shared backbone network, but agrees with the OUR's view that this is a radical concept which would require very careful consideration of a broad range of issues. GAL would be pleased to be involved in multi-party dialogue to investigate potential operational initiatives and licence amendments which could minimize the impact of future telecoms development on the Guernsey environment, since this is completely consistent with GAL's own environmental strategy and proven commitment to site sharing etc.

Site Sharing Charges

In the initial GAL response, GAL presented conclusive evidence that the current level of site sharing charges in Guernsey was excessive and as such was anti-competitive . GAL welcomes the OUR's findings that current site sharing charges are excessive and unacceptable. GAL fully supports the principle of site sharing and will proactively work with the other operators to try to agree much more appropriate site sharing arrangements in line with the OUR's specified timelines.

Strengthening Environmental Requirements

GAL has consistently shown its commitment to minimize the environmental impact of its operations and to engage openly and honestly with the Guernsey population, since environmental awareness is key element of our business strategy and ethos, We believe there is genuine public interest in the environmental impact of mobile telecommunications operations on the Bailiwick. GAL is disappointed that the OUR has decided not to proceed with applying the same GAL environmental protection and community engagement licence conditions to the licences of its competitors, since GAL believes it is important for the Guernsey telecommunications industry to proactively engage the community and work together to minimize the environmental impact of telecoms activities.



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Removal of Price Notifications

GAL welcome the OUR's decision not to remove the price notification licence conditions and would remind the OUR that GAL has no objection to complying the price notification conditions in its own licences when the appropriate market conditions make these applicable.

Technology Neutral Licences

GAL believes the OUR's assessment of the pros and cons of technology neutral licencing is balanced and fair. GAL acknowledges the general trend across Europe to move towards the adoption of technology neutral licences by regulatory authorities. GAL agrees that such licences are beneficial in giving operators the flexibility and freedom to optimize their allocated spectrum using the most appropriate technologies for their specific circumstances.

As the leading provider of 3G mobile broadband in the Channel Islands, GAL agrees that currently the demand for 3G mobile broadband products is focused within the islands, but believes that as roaming charges decrease, the flexibility of 3G mobile broadband internet access whilst travelling will increase roaming usage outside of the Channel Islands. GAL concurs with the OUR that limited 900MHz 3G handset availability currently constrains the practical delivery of 3G services in the short-term. However, the clear coverage and reach advantages of the 900MHz spectrum will result in this frequency being adopted as the preferred delivery spectrum for 3G in the medium-term and the handset issue will be addressed as demand increases. Clearly, as network operators recognize and exploit the operational benefits of delivering 3G services over the 900MHz frequency, to maintain competition, it is critical that all operators have equal access to this spectrum.

GAL agrees that the incumbent should unconditionally release 900MHz spectrum within the short-term and such an unconditional release should be directly linked to the potential award of 2100MHz 3G spectrum to the incumbent, ie the date for releasing and reallocating the 900MHz 2G spectrum is the same as that for the potential awarding of the 2100MHz 3G spectrum. GAL does not accept that the incumbent should be compensated for releasing 900MHz 2G spectrum, since the value of such a release is potentially comparable to the possible award of the corresponding 2100MHz 3G spectrum.

To safeguard our competitive position, GAL will robustly request a suitable allocation of the released 900MHz spectrum. GAL believes that its minimum requirements for 900MHz spectrum will be 5MHz bandwidth (5MHz uplink and 5MHz downlink). GAL will be able to utilize the re-allocated 900MHz spectrum within the short-term to expand and enhance its service quality and coverage.

Review of Mobile Spectrum

GAL firmly believes that ultimately there should be absolute equality of spectrum allocation across operators. However, GAL is satisfied that the key proposals outlined in the OUR draft decision could significantly re-dress the current striking imbalance between GAL and its competitors. Thus, GAL would agree that a short-term review of mobile spectrum allocation is not a priority, but this view is fundamentally based on the assumption that GAL will request and receive a reasonable allocation of the 900MHz spectrum released by the incumbent.



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Number of Mobile Operators

GAL fully supports broader and improved competition in the Guernsey mobile market and a relaxation of mobile market regulation. GAL welcomes new entrants since these potentially bring fresh thinking, challenges and new technology which will maintain Guernsey's position at the forefront of mobile telecommunications excellence.

In its original response, GAL argued that entrance to the Guernsey market should be determined by commercial viability and not by regulatory mandate. GAL is pleased that the OUR concurs with this viewpoint, but GAL agrees that regulatory control is essential in ensuring that future telecoms operations have minimal adverse impact on the Guernsey environment.

We trust our response and comments meet with your approval and we look forward to having the opportunity to actively contribute in the further stages of the in the further stages of the Guernsey Mobile Market Review.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'James Wild', with a horizontal line underneath.

James Wild
Head of Regulatory Affairs – Channel Islands
Guernsey Airtel Limited