



**COMMENTS ON**

**OUR DOCUMENT 10/05**

**REVIEW OF MOBILE LICENCE CONDITIONS**

**11<sup>TH</sup> JUNE 2010**

## 1 INTRODUCTION

Wave Telecom (“Wave”) welcomes the opportunity to respond to the Office of Utility Regulation’s (“OUR’s”) consultation on “Review of Mobile Licence Conditions” and believes that the time is right to consider whether certain licence conditions are still appropriate given the changes in the Guernsey mobile market.

Wave makes the following comments on the Licence Conditions discussed by the OUR in the consultation paper.

## 2 COMMENTS ON PROPOSED AMENDMENTS TO LICENCE CONDITIONS

### 2.1 Condition No 9: Integrity of the Network

This condition provides for the Licensee to take steps where necessary to ensure the integrity of the network and allows the Licensee to refuse to provide telecoms services if providing those services would be likely to cause damage or interference to the network or services.

Wave is of the view that the mobile operator’s terms and conditions would generally allow them to refuse to provide service if network integrity was at risk. The Wave Telecom Mobile Service Terms and Conditions at clause 14 states:-

*“14.1 The Contract may be terminated immediately by Wave Telecom if the Customer;*

*14.1.6 makes improper use, within the meaning of Article 16(1) of the Telecommunications (Bailiwick of Guernsey) Law 2001, or any amendment or supervening law thereto, of the Service provided in accordance with the Conditions;*

*14.1.7 does or allows to be done anything which in Wave Telecom’s opinion will or may have the effect of jeopardising the operation of the telecommunications system provided by Wave Telecom to any of its customers;”*

Consequently, Wave does not believe that the removal of Licence Condition 9 will reduce the protection that this condition provided and would agree that this condition should be removed from mobile operator licences.

### 2.2 Condition No 12: Service to the public

This condition is to ensure that a minimum level of mobile service and coverage is provided to mobile customers in the Bailiwick and that a Bailiwick wide network is developed and maintained.

Wave believe that this condition was important when there was only one mobile network in the Bailiwick and equally important as a condition for the new entrant mobile operators of Guernsey Airtel Limited (“GAL”) and Wave. However, Wave believes that this condition is no longer relevant with 3 operators competing in the Bailiwick. Network coverage and quality is an important criteria for consumers when choosing a mobile service provider and Wave believes it would be very difficult for any mobile provider to continue to attract customers if their network quality and coverage levels dropped below an acceptable level.

Consequently, Wave does not believe that the removal of Licence Condition 12 will reduce the mobile network quality and coverage currently afforded to Bailiwick consumers.

### 2.3 Condition No 14: Directory Information

This condition requires the licensee to ensure that users have access to directory information services and operator assisted services offered by the licensee or any OLO who is obliged to provide such services under the USO. This condition also requires a licensee to co-operate in making information available to enable a directory information service to be provided. It requires the Licensee to ensure that it does not use information for any other purpose than the directory information service, and complies with the data protection legislation.

Cable & Wireless Guernsey (“Sure”) is required to meet the USO obligation and therefore has to collect this information, whereas for other operators, providing directory services is a commercial choice. The OUR in considering whether any amendment to this licence condition is required and has asked for comments on:-

1. Given that Sure benefits commercially from producing Directory Information, should Sure received this data free of charge from the OLOs, or should it be required to pay a cost related fee for it ?
2. Should Directory Information be provided by all operators to each other at cost to avoid a regulatory barrier to other operators providing this service; or only be provided to the USO provider who is obliged to provide the service?

Wave would support the 2<sup>nd</sup> option proposed by the OUR, that directory information should be provided by all operators to each other at cost or on an agreed reciprocal rate card basis to avoid a regulatory barrier to other operators who choose to provide this service.

It is in consumer interest to ensure that any data published in a directory is accurate and up-to-date. The current method of sourcing “white pages” data through BT OSIS is costly and means that any OLO purchasing the data is likely to have an older version of it than Sure. Wave believes it is important that any directory published in the Bailiwick should be as up-to-date as possible and would be very supportive of a change to the current method of gaining white pages data. Of course it is also of benefit to Sure to have a complete customer listing and Wave’s customer data should also be available in the Sure Directory.

### 2.4 Condition No 15: Network and Service Development

The purpose of this licence condition is to ensure that all Bailiwick operators achieve best practice and industry standards and to ensure that Guernsey mobile users benefit from leading edge mobile services.

Wave appreciate that there could be concerns that customers could be “stuck” in a long contract with a mobile operator which decided not to update their services and keep their network up-to-date. Wave believe that this situation is very unlikely in a highly competitive market such as Guernsey where competing operators are keen to demonstrate their “uniqueness” and “shout about their firsts” when compared to the other operators. This is evidenced by recent announcement. Wave announced on 19<sup>th</sup> May 2010 that it had upgraded its network to provide speeds of up to 7.2 Meg. Guy Pipon, Deputy Managing Director at Wave Telecom, was quoted in the media release as saying “*Being the first to offer Super Mobile Broadband in the Balliwick demonstrates our firm commitment to providing customers with not only the best, but the very latest mobile services.*” Sure have since announced on 4<sup>th</sup> June 2010 that they are upgrading their network trialling higher data speeds:-

*“Sure<sup>1</sup> is upgrading its 3G mobile network in Guernsey to download speeds of up to 7.2 Megabits per second (Mbps) from its current 3.6Mbps and is on the verge of launching the island’s fastest network with speeds of 10.2Mbps expected in the next couple of months and testing for speeds of 14.4Mbps already underway.”*

In our experience, each mobile operator is always looking for ways to stand out in the market and the introduction of new and innovative services is one important way of doing that. Consequently, Wave believes it is not necessary for there to be a licence requirement for network and service development and the competitiveness of the market will drive new developments.

## 2.5 Condition No 16: Technical Quality of Network

Wave’s comments on technical quality of network mirror the comments made on Conditions No 12 and No 15 above.

## 2.6 Condition No 17: Consumer Protection

This condition requires the licensee to publish certain information with regard to its services and conditions and file this with the Director General (“DG”), to publish the manner in which it will deal with customer complaints, the protection of consumer privacy, the provision of itemised billing and the publication of a consumers code for the resolution of disputes and in relation to the non-payment of bills and disconnections. It also requires licensees to prepare a draft statement on its minimum service levels for customers, ensure the accuracy and reliability of systems including billing systems.

Wave would agree that consumer protection is important especially with the absence of wider consumer protection legislation in Guernsey. Wave feel it is still appropriate to publish a consumer code which clearly lays out the standards the company strives to achieve as well as advising consumers how complaints are handled and the timescales for resolution.

Wave has specific comments on the following:-

### (a) 6 monthly reports on consumer complaints

Wave agrees with the DG that it is good business practice for operators to satisfy themselves as to their approach to dealing appropriately with consumer issues. Wave believe that it would be more appropriate, as suggested by the OUR, for the DG to retain the right to request information on how complaints are dealt with as and when they are received and for responses then to be collated rather than a requirement to provide 6 monthly reports.

### (b) Filing Terms and Conditions with the Director General

Wave supports the DG’s view that terms and conditions of service should be readily available, transparent and easy to understand. Wave publishes all its terms and conditions on its website and any changes are published one calendar month in advance of changes taking place. Wave agrees that it is not necessary to notify the DG when any changes are made to terms and conditions if mobile operators publish the terms and conditions and notification of any changes on their websites.

### (c) Consumer Councils in the Telecoms Market

Wave would question the need for specific telecoms consumer councils in a highly competitive market. Wave would suggest that the work of the Guernsey

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<sup>1</sup> Extract from Sure Website (08/06/10)

Consumer Group could be used by consumers if they had an issue they would like to raise. Wave would expect that the Guernsey Consumer Group would hold a meeting with interested consumers if issues were consistently being raised. Or alternatively they could arrange a “telecoms day” as recently organised by the Jersey Consumer Council to bring together mobile providers and give local consumers a forum to view each operator’s products/services and ask any questions.

## 2.7 Condition No 18: Environmental Protection

Condition 18 reflects the DG’s duty to lessen where practicable any adverse impacts of utility activities on the environment. In GAL’s licence this includes the use of methods to minimise the visual disruption caused by deploying its network, equipment solutions which are energy efficient where possible, providing recycling facilities for unused parts, holding an annual environmental meeting, publishing details of its environmental strategy and approach and reporting on these steps within six months of the Licence commencement date.

Wave does not have a similar condition in its 2G or 3G licence however, some of the requirements of the GAL’s Condition 18 are followed by Wave without the necessary licence requirement. Consideration for the environment has been recognised by Wave as an important element to be integrated into our daily operational processes and management planning.

The Wave Telecom Board decided in 1997 that it would develop an environmental policy with supporting objectives for the company to reduce its impact on the environment. The Wave environmental policy objectives are detailed below:-

*Wave Environmental Policy Objectives:-*

*Reduce, Reuse and Recycle – Reduce consumption of materials and harmful emissions, re-use rather than dispose wherever possible, and promote recycling and the use of recycled materials.*

*Energy Efficiency – With regards to new services, buildings and products and also manage energy wisely.*

*Promote Awareness – Promote awareness to employees through education and ongoing communication*

*Suppliers and Contractors – consider those involved with Wave and work with suppliers to minimise the impact of their operations on the environment*

*Transport – Ensure efficient and effective use of transportation.*

*States – Look to States polices for guidance on environmental standards, and meet or exceed all relevant legislation on environmental issues.*

Wave believe that Sure also has similar environmental policies. Given the fact that environmental concerns appear to already be a concern for all mobile operators, whether a condition of their licence or not, Wave questions the need to have a specific licence requirement for that purpose.

Wave would suggest that perhaps it would be more appropriate for the OUR to include a specific licence condition with regard to telecom specific scarce resources such as spectrum and perhaps numbering. Wave believe it is not necessary for the DG to specify such things as energy efficiency as Wave feel that operators are keenly focused on controlling costs of which energy usage is just one item.

## 2.8 Condition No 19: Monitoring Performance

The mobile licences all contain requirements for the operators to report on their performance against certain quality of service targets. The detail and the nature of what is required in that report is varied and the nature of the reports submitted has also varied in detail. The licence conditions do make provision for the DG to specify how this information should be presented, however to-date there has not been a standard methodology or approach mandated by the OUR.

Access to network performance information is important in helping consumers make informed choices on which network to use. Wave would agree with the DG's suggestion that annual reports with a common set of metrics would be a positive step to allow consumers to use this information when choosing their service provider.

One point that Wave would like to emphasise is the importance of providing information that customers can understand without the need to be a technologist. The statistics that Wave currently provide are based on call success rate, call drop rate, provisioning and fault ratios and are not the type of information that would be clear to customers. We would suggest that the following measurements might be the type of thing that consumers could use to select a mobile service provider:-

- Network coverage
- Getting connected
- Staying connected
- Reliability in the day
- Reliability in the evening
- Data speed achievable

Wave would suggest that an independent company is engaged to test the agreed key metrics for each mobile operator. The published results would then be completely independent and consumers could rely on the results to make their network choice. Mobile operators have recently used their own network performance measurements in advertising to highlight the quality of their network compared to others however, from a consumer point of view it is very difficult to understand what is meant by terms such as "highest average coverage" and to understand the measurements used to qualify statements such as "Join the best and most reliable network".

Consequently, independent network testing with plain English results would be a useful guide for consumers when choosing a mobile service provider.

## 2.9 Condition No 31: Price Regulated Services

Sure has a requirement to publish 21 days in advance, notice of any price changes, discounts or special offers it intends to introduce. The Director General may determine the maximum level of charges the Licensee may apply for services within a Relevant Market in which the Licensee has been found to be dominant. If the Director General considers any published price, discount scheme or special offer is in breach of the Telecommunications Law or this License, the Director General may require these prices to be brought in line with the requirements of this License. This condition is applied only to dominant operators, and here only to 'regulated services'.

Wave would suggest that given the competitive nature of the market there should be no requirement for Condition 31 to apply to Sure. Although Sure continues to have the highest mobile market share, it does not have the ability to increase its prices without regard for the market and the effect it might have. Wave agrees that ex-post provisions in the new competition law and Licence Condition 32 are sufficient and Condition 31 should be removed from Sure's licence in its entirety.

#### 2.10 Condition Nos 35 – 38 Customer Support

Conditions 35 – 38 relate to the GAL bid and are therefore not present in Sure or Wave's licences.

Wave would agree with the OUR's statement that in a competitive environment, there is a commercial incentive to provide customer support, new services, price reductions and innovative features without it necessarily being a condition of the licence.

Wave would concur that when moving to a standardised licensing regime, conditions such as this should be removed even where the condition was originally included as part of a licence bid process.

As previously stated in this response, the competitive nature of the mobile market has shown that competing operators are keen to demonstrate their "uniqueness" and "shout about their firsts" when compared to the other operators. We have recently seen adverts from Sure highlighting the fact that their helpdesk is open 24x7 and manned by Guernsey based agents (Condition 35). There is also fierce competition on price in the market (Condition 37) and there are frequent new mobile products advertised in the local media (Condition 36). Condition 38 would seem to Wave to not be relevant to a mobile licence given that there are other commercial portal sites available such as [www.guernseyinsight.com](http://www.guernseyinsight.com).

#### 2.11 Term Limits

Each of the mobile licences contains a definition for what the term of the licence is and all licences granted at different stages, have a different length left to run on each licence term varying from 5 years in the case of Sure's 2G licence to 19 years in the case of its 3G licence which was granted in 2009.

Wave would support the view that term time limits should be removed altogether giving operator's maximum certainty and therefore providing appropriate incentives for long term investment.

