



# Office of Utility Regulation

## Cable and Wireless Guernsey Price Control

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### Final Decision

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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. Introduction

On 1<sup>st</sup> April 2011, Cable and Wireless Guernsey's (C&WG) three year price control will end. The DG has therefore considered the options for replacing the existing control mechanism. This process began in February 2010, followed by a consultation paper published in November 2010. A streamlined process was proposed as part of that consultation and this final decision concludes that process.

An ongoing pan-Channel Island project involving the OUR, the Jersey Competition Regulatory Authority and operators across both Guernsey and Jersey, was relevant to the DG's assessment. This pan-Channel Island project was initiated to facilitate the development of wholesale access products – these determine how competing operators can utilize the existing fixed telecommunications network - and the potential outputs from that project will have a bearing on the scope for future competition in the fixed telecoms market.

It would not however appear that the competitive landscape of fixed telecoms in Guernsey will alter substantively over 2011/12 given the changes needed to deliver the wholesale access products identified under the pan-Channel Island initiative.

The DG has therefore decided to roll-over the current price control of C&WG, revisiting the broader issues of scope of the price control over the coming year when the deliverables of the pan-Channel Island project are further developed and the implications better understood. The DG has also agreed to C&WG's request for an increase in the retail price of fixed exchange line rental by £1 per month. He has not agreed to allow the charge for the Telephone Assistance Scheme or Shortcall exchange line tariff to be raised and vulnerable users will therefore not be impacted by the increase in exchange line charges.

## 2. Structure of the Consultation Paper

The document is structured as follows:

- Section 3: Sets out the legal and regulatory framework for the telecoms sector;
- Section 4: Summarises respondents' views;
- Section 5: Sets out the DG's views;
- Section 6 : Summarises the decision.

The DG received responses to the consultation document from:

### **Cable and Wireless Guernsey**

### **Wave Telecom**

The DG wishes to thank those who have responded to the consultation for their contributions. 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 offices during normal working hours.

### 3. Legal requirements and Licensing framework

#### 3.1 Legal Requirements

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. The Telecoms Law specifically provides that such conditions can include (but are not limited to):

- conditions intended to prevent and control anti-competitive behaviour<sup>1</sup>; and
- conditions regulating the price premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market<sup>2</sup>.

#### 3.2 Licensing Framework

In accordance with these provisions in the Telecoms Law, both the “Fixed Telecommunications Licence Conditions”<sup>3</sup> and the “Mobile Telecommunications Licence Conditions”<sup>4</sup> awarded to C&WG include the following text:

*“The Director General may determine the maximum level of charges the Licensee may apply for Licensed Telecommunications Services within a Relevant Market in which the Licensee has been found to be dominant. A determination may:*

- a) provide for the overall limit to apply to such Licensed Telecommunications Services or categories of Licensed Telecommunications Services or any combination of Licensed Telecommunications Service;*
- b) restrict increases in any such charges or to require reductions in them whether by reference to any formula or otherwise; or*
- c) provide for different limits to apply in relation to different periods of time falling within the periods to which the determination applies.”*

This condition allows the DG to regulate the prices that a licensee charges for its telecommunications services in a way and for a time that he deems appropriate, where the licensee has a dominant position in the relevant market.

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<sup>1</sup> Condition 5(1)(c) of the Telecommunications (Bailiwick of Guernsey) Law, 2001.

<sup>2</sup> Condition 5(1)(f) of the Telecommunications (Bailiwick of Guernsey) Law, 2001.

<sup>3</sup> Document OUR 01/18; Condition 31.2.

<sup>4</sup> Document OUR 01/19; Condition 27.2

## **4. Current price control and subsequent developments**

In order to better assess the need for, and possible scope of, any future price control, given the current price control expires in 2011, the OUR issued a consultation paper in November 2010. He received two responses to that consultation, namely from C&WG and Wave Telecom. These views are discussed below.

### **Views of respondents**

C&WG supported the proposal to move straight to the final decision and agreed to a one year extension of the existing price control to no later than 31<sup>st</sup> March 2012, subject to being able to agree with the OUR the adjustment to the exchange line rental price of £1 per month. For consistency, C&WG proposed that the December 2010 RPI figure was taken for the one-year price control rollover. C&WG also withdrew its request to raise the Telephone Assistance Scheme (set out in its confidential response to the OUR's calls for comment letter) and agreed not to raise the Telephone Assistance Scheme or Shortcall exchange line tariffs from £3.99 per month.

Wave Telecom's response stated that C&WG does not currently offer a wholesale version of their fixed line rental product and there is no other means of gaining access to the residential fixed line rental business in Guernsey. It therefore believed it appropriate for a price control to continue until competitors can enter that market utilising a wholesale variant of the exchange line rental product. Wave Telecom's view was that it seemed reasonable for C&WG to increase line rental charges to £8.99 based on the price of exchange line rental in other jurisdictions and the fact that the price has been static for the last 3 years.

## **5. DG's views**

### ***C&WG's dominance***

C&WG's market share of voice originated minutes was 86%, while it had a 79% market share of fixed voice revenue, based on the last OUR telecoms market report. While the situation differs to some extent between residential and business customers, these market shares remain high. The DG's view therefore remains, namely that it is too early to justify revisiting questions of market power in the fixed telecoms market given the sustained high market shares by C&WG. Wave's response made the point that dominance does not necessarily imply the need for a price control. There are instances where the DG does not apply a price control to a dominant firm's products

and he will consider taking such an approach where appropriate in any future price control.

### ***Inflation***

Given the degree of uncertainty around future inflation, the DG considered one approach to address C&WG's concerns in this area was to reset inflation for the next year of C&WG's price control to the last published RPI at the time of a final decision.

C&WG's view was that the December RPI figure was generally used in setting price controls, while Wave suggested a further alternative of 3.5% given an expectation of higher inflation.

The DG will set the inflation figure for the price control roll-over of one year based on the general practice of taking the RPI figure for December 2010.

### ***Exchange Line rental***

No parties objected to the proposed increase of £1 in monthly exchange line rental and the DG's decision is to allow the cap on this C&WG service to be adjusted accordingly to £8.99 for the 2011/12 year.

## **6. Conclusion**

This document concludes the process for setting C&WG's price control, which will take the form of a rollover of the existing control to the period 1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2012. The RPI figure will be that published for the month of December 2010 and the cap on exchange line rental will rise from £7.99 to £8.99 per month.

The DG will review the deliverables of the pan-Channel Island project as they are further developed in the course of 2011. The progress of this project will be one of the considerations which will inform the DG's next steps in relation to setting any further price control on C&WG.