



Office of Utility Regulation

Notification Exemption for Cable & Wireless Guernsey IP Feed Product

Final Decision

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Notification Exemption for C&W Guernsey IP Feed Product

Introduction

Cable & Wireless Guernsey's Licence for fixed telecommunications services, in its Condition 31, requires Cable & Wireless Guernsey (C&WG) to give a notice period of at least 21 days (retail) or 30 days (wholesale) before offering new products, new prices or discounts, or special offers.

Condition 31 also allows the Director General of the Office of Utility Regulation (DG) to exempt C&WG from this requirement and replace it with an obligation to notify the Director General on the day of the changes coming into force and to put the notification prominently on its website.

Before granting an exemption, the DG must consult C&WG and such other persons as he may determine. The DG did so with a consultation document issued on 7 February 2012, which attracted two responses. After consideration of those responses, the DG has decided to issue a conditional exemption to C&WG for its IP Feed product.

This document describes C&WG's IP Feed product, the reason put forward for exemption from the notification obligation, the objections to the proposal received by the OUR, and the DG's decision.

C&WG's IP Feed Product

C&WG's IP Feed product is a retail product for businesses. It is the 'high-end' one of two services which C&WG offers to businesses that need to be connected to the internet with a fixed line. The service is provided over a dedicated private circuit and provides constant access to the internet. It is a flexible product, with an internet connection of 256kbps capacity at entry level, which can be raised as a customer's needs increase.

Reasons for the Exemption

C&WG has requested that the notification requirement for this service is removed as it believes it is not in a position to abuse its dominant position in respect of this service. C&WG argues there is sufficient actual or potential competition in the provision of services similar to its IP Feed product to ensure that it cannot abuse its dominant position and it is therefore not necessary to maintain a notification provision that applies to a dominant operator only.

The point is also made that reducing the obligation for this service may encourage innovation on C&WG's part and on that of its competitors, which will benefit customers.

Responses to the OUR Consultation

The OUR received two responses to its consultation, from JT (Guernsey) Limited ('JTG') and LP Telecoms limited ('LPT'), a part of the Long Port Group.

JTG had no objection in principle to the exemption but was concerned that the pricing of the IP Feed product should be fully transparent. JTG argues that as provision of an IP Feed product entails the provision of a leased line and as C&WG has a monopoly on the provision of wholesale leased lines, for which it charges a wholesale price, JTG wanted to emphasize that the pricing of a C&WG IP Feed product must include the cost of the leased line at its full wholesale price.

LPT objected in principle to any relaxation of controls on C&WG, as the dominant operator in Guernsey. It argues that any relaxation should await the outcome of the pan-island project on wholesale access. Specifically regarding IP Feed products, LPT felt that they should be treated as if they were leased lines, the provision of which by C&WG still needed to be strictly regulated. LPT says that, in fact, leased lines and submarine dark fibre are provided by a duopoly (Cable & Wireless and Jersey Telecom) and there is, therefore, insufficient competition in the provision of IP Feed products.

LPT noted that C&WG fails to include pricing or technical information about its IP Feed product on its website. LPT therefore argues that if C&WG published prices for the full range of its IP Feed products, the resulting transparency could stimulate demand and innovation. LPT therefore did not believe that C&WG should be exempted from providing full and timely information regarding its IP Feed products

Decision

The DG thanks the two respondents for their comments which he has considered carefully. He agrees that C&WG needs to provide more information on its website, which must be prominent and easily accessible. In particular, such information must enable a user to compare the cost of the IP Feed service offered by CWG separately from a bundled IP Feed and leased line service of similar capacity.

The DG, however, still believes that there is competition in the supply of IP Feed products and these are distinct from the wholesale or retail provision of lease lines. There are regulatory requirements on C&WG concerning the provision of wholesale lease lines, and the DG believes that the provision of IP Feed products is replicable by

other providers. This suggests that, if there was a risk of any attempted abuse by C&WG in the provision of this service, its customers would have access to alternative IP Feed providers.

As a result of these considerations, and subject to the requirement on C&WG in Condition 31.5 to put changes to its IP Feed product prominently on its website and in the expectation that CWG will include transparent information on its IP Feed products on its website, the DG has decided to exempt C&WG from the obligation to notify a change to its IP Feed product 21 days in advance.

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