



Cable and Wireless Guernsey Price Control 2013

Draft Decision

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1. Introduction

On 1st April 2012, Cable and Wireless Guernsey Limited's (**C&WG**) one year price control ended and a decision to allow a rollover of that price control for a further year, to 31st March 2013, was made by the predecessor of the Guernsey Competition and Regulatory Authority (**GCRA**), the Office of Utility Regulation (**OUR**), in March 2012.

An ongoing pan-Channel Island project relating to the development of wholesale telecoms markets, involving the Channel Islands Competition and Regulatory Authorities (**CICRA**)¹ and operators across both Guernsey and Jersey, was relevant to the assessment in 2012 and the decision to allow the rollover. A draft decision was issued in November 2012 with regard to the introduction of wholesale line rental by C&WG (CICRA 12/53), and that draft decision indicated the intention that this access product would become available in the Channel Islands during 2013. However, the need for a price control on certain of C&WG's retail products remains, at least until such access products are available, and a price control rollover therefore offers a more suitable approach in the circumstances.

In this draft decision, the GCRA proposes a rollover of the existing form of the 2012 price control, with some modification, and a freeze on C&WG's price-controlled baskets. This paper sets out these issues further and the basis for this draft decision.

¹ *CICRA consists of the Jersey Competition Regulatory Authority and the Guernsey Competition and Regulatory Authority.*

2. Structure of the Draft Decision

The document is structured as follows:

- Section 3: Sets out key legal and regulatory references relevant to this draft decision.
- Section 4: Describes relevant developments that have informed the draft decision.
- Section 5: Sets out the proposed decision.
- Section 6 : Explains the next steps to finalizing this price control.

Responses to this document should be submitted in writing to:

GCRA
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Hirzel Court
St Peter Port
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or by email to info@icra.gg.

The deadline for responses is 5.00pm on Monday, 18th March.

All comments should be clearly marked: “Cable & Wireless Guernsey Ltd’s Price Control – Draft Decision 2013”.

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 GCRA may include in licences such conditions as it considers necessary to carry out its functions. The Telecoms Law specifically provides that such conditions can include (but are not limited to):

- conditions intended to prevent and control anti-competitive behaviour²; 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 market³.

3.2 Licensing Framework

In accordance with these provisions in the Telecoms Law, the Fixed Telecommunications Licence awarded to C&WG includes the following condition⁴:

“[The GCRA] 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 Services;*
- 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 GCRA to regulate the prices that C&WG charges for its telecommunications services in a way and for a time that it deems appropriate, where C&WG has a dominant position in the relevant market.

² Section 5(1)(c) of the Telecoms Law.

³ Section 5(1)(f) of the Telecoms Law.

⁴ Condition 31.2.

4. Current price control and subsequent developments

C&WG has not sought increases in the overall price cap for Baskets 1, 4 and 5 for 2013.

The current price control for C&WG comprises three baskets:

- Basket 1⁵: Exchange Line Rental, Local Calls and a 'Main' basket⁶
- Basket 4: On-Island Wholesale Leased Lines
- Basket 5: Off-Island Retail Leased Lines

Detail regarding the precise contents of the above baskets is set out in the OUR's decision notice for C&WG's 2008 price control⁷.

A draft decision and an initial notice setting a timeline for the introduction of wholesale line rental in Guernsey and Jersey was issued in November 2012, and this draft decision indicated the intention that this product would be available prior to the end of 2013. This product should assist in further promoting competition in the fixed telecoms market. In light of these developments, as part of its 2013 work programme CICRA proposed to consider whether retail price controls should continue to be set for C&WG and JT (Jersey) Limited (**JT**). In consideration of the above, the GCRA proposes that the overall price caps for Basket 1 and Basket 5 should be frozen for 9 months, until 31 December 2013, which is the point at which the 2013 retail price control for JT expires. This would allow for the timing of any change in price regulation of these two baskets to take place at the same time in both islands.

CICRA also intends to carry out a review into on-island leased lines in Jersey and Guernsey during the second half of 2013 and the timing of this review may not conclude by the end of December 2013. This draft decision therefore proposes to retain an overall price cap on the products of Basket 4 until a review of this specific product set has been carried out, rather than the 31st December 2013 deadline as for the other two baskets..

⁵ In the 2008 price control decision the components of this basket were separated into Baskets 1, 2 & 3 but were combined into a single basket in the 2012 control decision.

⁶ This term refers to the products that used to be included in a single Basket 3 ('Main' Basket); such products included Fixed Line local ISP calls, Fixed Line non-geographic calls charged at local rate, Fixed Line Jersey and National calls, Fixed Line non-geographic calls charged at national rate, Fixed Line international calls, Fixed Line calls to Guernsey mobiles, Fixed Line calls to Other mobiles, Public Payphones, Exchange Line connection and ISDN services.

⁷ Document No: OUR 08/07, February 2008

Off-island connectivity charges have been identified as an area of priority for the States of Jersey and Guernsey and CICRA is currently contributing to the deliberations of the ICT Strategy Group for the States of Guernsey in this area. In light of this on-going review, the GCRA proposes the overall cap on prices in Basket 5 (ie retail prices for off-island leased lines) should be frozen over the period of this control.

In this 2013 control, the cap on Basket 4 and Basket 5, C&WG's on-island wholesale prices and off-island retail products, will apply at the aggregate level only and not to individual services within those baskets. C&WG would therefore be able to re-balance charges within these baskets which it was restricted from doing in previous controls.

5. Draft Decision

C&WG's dominance

The GCRA does not see a basis for revisiting the finding of dominance by C&WG in the relevant markets at this stage. Market reviews are likely to be carried out on a pan-Channel Island basis in late 2013 or early 2014, at which point these findings of dominance may be revisited.

Price control proposals

The tables below set out the price controls proposed.

Baskets 1 and 5 would continue to be subject to the standard price control:

Basket	Description	Control proposed	Expiry
1	Exchange line rental, Local Calls and Main	Frozen (RPI-RPI)	31 December 2013
5	Off-island leased lines (retail)	Frozen (RPI-RPI)	31 December 2013

C&WG would be permitted to rebalance prices of individual products within Basket 5, provided that the overall weighted average of prices did not increase (with weights for individual products established by the value of sales for each product in the year to 31 March 2013).

4	On-island leased lines (wholesale)	Frozen (RPI-RPI)	Until replaced by further control or removed
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The price cap applying to Basket 4 would remain in place, pending the results of the review of on-island leased lines. However, C&WG would be permitted to rebalance prices of individual products within Basket 4, provided that the overall weighted average of prices did not increase (with weights for individual products established by the value of sales for each product in the year to 31 March 2013).

6. Conclusion

This draft decision sets out how the GCRA is minded to proceed in setting a form of price control rollover for C&WG that balances the competing interests and priorities of stakeholders. Respondents are requested to provide their views on this draft decision. The GCRA will consider those views and issue a final decision prior to 1st April 2013.