

Dear John,

I write on behalf of the No More Masts group in respect of the proposed extension for Guernsey Airtel Ltd in order for them to comply with their Mobile Licence requirements.

We are opposed to any extension and believe the Office of Utility Regulation should be imposing sanctions against Airtel for their non-compliance. We base our opposition on the following grounds.

Airtel were awarded a 2G & 3G licence on 15th September 2006, and at that time they accepted the terms of the licence. The terms stated that they would be required to achieve 57% network coverage for 2G & 3G in Guernsey, Alderney, Sark and Herm, by 15th September 2007. This deadline was accepted by Airtel. Indeed, I remember a conversation you and I had in which you told me that you had suggested to Airtel that 18 months from the granting of the licence might be a more appropriate period of time for them to be up and running, but they had told you that 12 months was long enough!!!!

However despite only having 12 months in which to reach this target, Airtel failed to make a single application to Environment (for masts or antennae) before 30th March 2007, some six months after the granting of their licence. They did not make an application until 25th May 2007, leaving only four months in which to get their network up to the required level. Bizarrely, they then made 30 separate applications to Environment for masts and antennae in June and July of last year.

Airtel failed to launch their service on 25th September 2007. This was, of course, the first of two breaches of licence. In writing to inform you that they would not be in a position to launch their service, they requested a six-month extension, which was rejected by the OUR in favour of awarding a three-month extension. This extension did not carry any sanctions; however, at the time you stated:

"I'm disappointed that the Airtel network won't be in place on time, but given the wider issue of the need to arrive at a solution that meets the needs of the mobile companies in a way that minimizes disruption to the environment we believe an extension is a reasonable course of action. Equally, I think we need to get this situation resolved as speedily as possible, and a six month extension is excessive. Therefore, I am proposing to grant an extension for Airtel until 15th December. Airtel will however still be required to honour its performance guarantees which were linked to it launching its network on time and the company has committed to doing so.

"I think a three month extension is a fair balance which will give Airtel enough time to work with the authorities, local residents and other operators to continue installing their network successfully, but also get this matter resolved as soon as possible".

May I draw your attention to the last sentence in the above paragraph, where it is clear that you felt that a three-month extension was "a fair balance". It is, therefore, unacceptable in NoMM's view for you to renege on your earlier views and now offer them a further three-month extension. Not only are you proposing giving Airtel a further three months but you are not making any provision for sanctions to be levied in the event of further non-compliance.

It is worth pointing out at this point that Airtel failed to make an application to the Alderney planning department until 13th November 2007 - just four weeks prior to your imposed extension running out (four weeks prior to the date when they had to be operational in Alderney).

We believe that Airtel has been at best naive, and at worst negligent and arrogant. They were extremely slow with their initial applications, not making a single one for six months. After missing the first licence deadline of 15th September, they continued to show little or no respect for the OUR or the people of Guernsey and Alderney.

We believe that there is an overwhelming case to support our contention that Airtel has not made sufficient effort to have their network up and running in accordance with their licence requirements, **not once but twice.**

In the information you have issued, both written and verbal, in respect of this delay, you have stated that Airtel is working hard with all parties concerned to meet their requirements. We strongly refute this, and I am sure you will agree that the evidence above supports our argument.

We feel it is important at this stage to remind you of the time period you allowed Wave Telecom when in April 2004 they failed to roll out their network as speedily as was required of them. **You allowed them two months to comply, whereas inexplicably you are allowing Airtel six months. Would you not agree that this is no way a level playing field?**

We believe that in your relationship with Airtel a set of circumstances has developed which is in clear breach with the Regulation of Utilities (Bailiwick of Guernsey) Law 2001, Part II, 2, General Duties: (e) to improve the quality and coverage of utility services and facilitate the availability of new utility services within the bailiwick; and (f) to lessen, where practicable, any adverse impact of utility activities on the environment.

Your decision to award the licence to Airtel Guernsey Limited has not met the requirements of (e) and (f) above. Had the licence been awarded to the incumbent telecommunications company (Cable & Wireless), the people of Guernsey would have had a competitive 3G network operational by 30th September 2007, and the environmental impact on the Island would have been minimal.

In addition, Cable and Wireless were so confident of being able to launch their service by the 30th September 2007 that they made provision in their licence application to voluntarily pay a very large financial penalty should they breach that date. You now find yourselves in the unfortunate position of having to extend Airtel's deadline for a second time, and still you have not outlined any possible sanction should they remain in breach of their licence.

Regards

Colin Fallaize  
Chairman NoMM