

Office of Utility Regulation

Competition for Mobile Telecommunications Licences

Call for Expressions of Interest and Call for
Comments on Preliminary Tender Document

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1. Introduction

This document is the first of a series of documents that the Director General of Utility Regulation in Guernsey (“the Director General”) is issuing as part of the process of awarding a second 3G mobile telecommunications licence in the Bailiwick of Guernsey. The Director General may also make available a third 2G mobile telecommunications licence should a successful applicant for the 3G licence be able to demonstrate a need for such spectrum.

The objectives of this paper are to:

- set out the proposed design of the competition process for the second 3G mobile telecommunications licence in Guernsey;
- seek views on the proposed design of the forthcoming competition with a view to finalising the tender documents for this competition, and
- invite expressions of interest in the new licences.

It is intended that the award of the 3G mobile telecommunications licence will be made by 1st July 2006. More details on the timing of the various stages of this competition is set out in Section 6. The licence will be awarded through a comparative selection process.

The Director General invites all interested parties to provide their feedback on the proposed design of the forthcoming competition for the mobile telecommunications licence in Guernsey which is outlined in the Preliminary Tender Document set out in Appendix 1 to this paper.

In particular, the Director General invites potential applicants for the licence to express their interest in applying for a licence on the specific terms and conditions proposed in the Preliminary Tender Document. Also, suggestions regarding the regulatory framework or adjustments to the design of the competition, which – in the view of potential applicants – would contribute to the objective of introducing sustainable competition are welcomed. Comments and suggestions should be substantiated by supporting evidence.

In the light of the responses to this call for expressions of interest and comments and further research, the Director General will finalise the design of the competition and the Tender Document by 31st January 2006 as shown in the timetable set out in Section 19 of the Preliminary Tender Document.

It will not be a requirement for participation in the competition to submit a formal expression of interest as a response to this call for interest and comments. Nor does the submission of an expression of interest confer an automatic right to participate in the competition.

2. Structure of Paper and Process

2.1. Structure of Paper

The paper is structured as follows:

- Section 3 describes the telecommunications regulatory regime in the Bailiwick of Guernsey;
- Section 4 provides some background information on the Guernsey economy and mobile telecommunications market; and
- Section 5 lists a small number of questions which the Director General specifically seeks feedback on from potential applicants. Aside from this brief list of specific questions, interested parties are also invited to submit comments on any aspect of the competition design as set out in the Preliminary Tender Document which is included as Appendix 1.
- Section 6 sets out details of the preliminary timetable for the running of this competition.

2.2. Procedure and Timetable

The timetable for the actual licence award process is set out in the attached Preliminary Tender Document.

Responses to this document should be submitted in writing and should be received by the OUR before 5.00pm on Friday 16th December 2005. Written comments should be submitted to:

Office of Utility Regulation
Suites B1 & B2,
Hirzel Court,
St Peter Port,
Guernsey, GY1 2NH.

All comments should be clearly marked: “Competition for Mobile Telecommunications Licence – Expressions of Interest and Comments on Preliminary Tender Document”.

In line with the policy set out in Document OUR 04/01 – “Regulation in Guernsey; Revised Consultation Procedures”, the Director General intends to make any comments received available on the OUR website. Any material that is confidential should be put in a separate annex and clearly marked so that it can be kept confidential. However the

Director General regrets that he is not in a position to respond individually to the responses to this consultation.

This document does not constitute legal, technical or commercial advice; the Director General is not bound by this document and may amend it from time to time. This document is without prejudice to the legal position or the rights and duties of the Director General to regulate the market generally.

3. Background Information

3.1. Statutory Requirements

Section 2 (1) of the Telecommunications (Bailiwick of Guernsey) Law 2001 describes the Director General's responsibilities regarding the granting of licences for telecommunications networks and services. With regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions, the Director General may grant a licence authorising any person to establish, operate and maintain a telecommunications network; or to provide telecommunications services of any class or description specified in the licence.

Section 3 (1) of the Telecommunications Law describes the Director General's responsibilities for publishing details of the procedures to be followed and the criteria to be applied in relation to applications for, and the grant of, a licence. The mobile telephony market in Guernsey was opened to competition from 1 April 2003. Any new network operator wishing to enter the Guernsey mobile telecommunications market will require a mobile telecommunications licence to do so.

3.2. Regulatory Regime

In May, 2002, the Director General published a consultation paper (OUR 02/18), entitled "Mobile Telecommunications Licence Terms and Conditions"¹, which focused on the licence obligations and conditions for the new 2G and 3G licensees. This followed an earlier consultation paper "Mobile Telephony Licensing in Guernsey"² (OUR 01/25) published in December 2001 and the subsequent "Report on the Consultation and Decision Paper"³ published in April 2002 (OUR 02/14). The May Consultation Paper (02/18) sought the views and comments of interested parties on issues and principles to be applied to the new mobile telecommunications network licences being awarded at that time. The Director General's intention was to develop a licensing regime that fosters competition between mobile operators and service providers in order to maximise the benefits to Guernsey consumers in terms of prices, innovation and quality of service.

Following the consultation process, a competition to award the mobile licences was launched at the end of 2002 and in March 2003 the Director General awarded Wave Telecom Ltd both a 2G and a 3G mobile licence. The award of the 3G licence represents the first (and to-date only) 3G mobile licence awarded in the Bailiwick and the Channel Islands

¹ Document No: OUR 02/18 May 2002, Mobile Telecommunications Licence Terms and Conditions.

² Document No OUR 01/25 Mobile Telephony Licensing in Guernsey.

³ Document No OUR 02/14 Mobile Telephony Licensing in Guernsey Report on the Consultation and Decision Paper.

As there remains sufficient spectrum to accommodate a further 3G licence, this invitation for expressions of interest is intended to seek to assess whether demand exists for such a licence and to consult on the proposed means of allocating that licence.

3.3. *Spectrum trading*

The Wireless Telegraphy (Spectrum Trading) Regulations 2004, through which the UK enacted the spectrum trading measures of the Communications Act 2003, were not extended to the Bailiwick of Guernsey by Order in Council. In addition, the current trading regulations in place in the UK do not address 2G or 3G licence products.

However, Ofcom plans to introduce trading progressively to a wider range of licence products, with 2G/3G products earmarked for possible inclusion by 2007. Spectrum trading is generally regarded as primarily the responsibility of Ofcom, and any trades would obviously need to be referred to Ofcom. It is likely also that, in consultation with the OUR and the States, these provisions be considered for extension to the Bailiwick through an Order in Council.

3.4. *Review of Commercialisation and Regulation*

In October 2004, the States of Guernsey announced that it would be undertaking a review of the commercialisation and regulation model introduced by the States in October 2001. The review is led by the Department of Treasury & Resources and the Department of Commerce & Employment and the review itself has been carried out by the UK National Audit Office. The findings of this review are due to be presented to the States early in 2006.

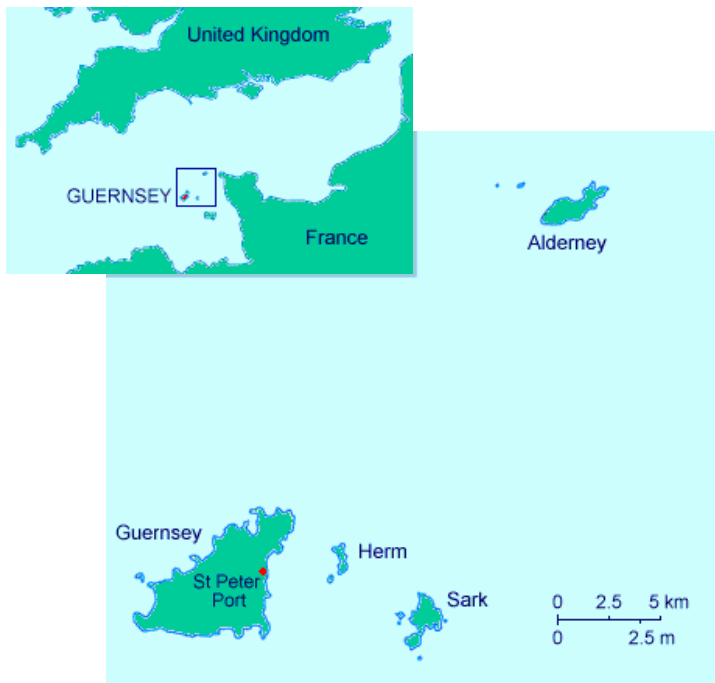
The States announcement on the review may be viewed on the States of Guernsey website at www.gov.gg or by following the link below:

<http://www.gov.gg/ccm/general/press-releases/2005/february/review-of-commercialisation-%26-regulation.en>

4. Market for Mobile Services in the Bailiwick of Guernsey

This section provides a brief introduction to the Bailiwick of Guernsey, a small, yet sophisticated high growth economy in Western Europe⁴.

4.1. Geography



Although together with the Bailiwick of Jersey, the two Bailiwicks are referred to as the Channel Islands, they are actually located in the Gulf of St Malo, 48 km north-west of France. The Bailiwick of Guernsey covers an area of 127 km² comprising the main islands of Guernsey, Alderney, Herm, Sark, and number of other smaller islands.

The island of Guernsey itself is 96 km south west of England and about 42 km west of Northern France. It is about 19 km long, 14 km wide and is divided into 10 parishes. The climate is temperate and level

terrain is predominant with low hills in the southwest of the island.

Alderney is the most northern of the Channel Islands, 14 km from France and the closest of the islands to England and access is primarily by air.

Herm is an island just off St Peter Port in Guernsey, about 20 minutes by the regular ferry service. It is 2 km long by 1 km wide. Sark lies nearly 13 km east of Guernsey. Access is by sea as there is no airport on the island.

4.2. Population

A Census of population and households is carried out in the Islands every 5 years, the last Census being held on 29th April 2001. The Census was organised by the former Economics and Statistics Unit of the Advisory and Finance Committee. The census was carried out in the Island's of Guernsey, Herm, Jethou and Alderney. The Census revealed that the population of Guernsey, Herm and Jethou was 59,807, and that of Alderney was

⁴ For further general information about the Bailiwick of Guernsey, please visit <http://www.gov.gg/>

2,294⁵. Over two thirds of the population are in the 19-59 year-old age group. The 2001 Census figure was the highest population ever recorded in the island and was 1,126 more than in the previous Census held in 1996. With around a further 600 people on Sark more than 95% of the population live on the island of Guernsey where the population density approaches 1,000 people per km² (2,500 people per square mile).

In 2004, a total of 355,000 people visited Guernsey. Of these, 318,000 stayed for at least one night and consisted of leisure visitors, business travellers and those visiting friends and relatives. 46,000 business visitors stayed for at least one night⁶. The average length of stay for leisure visitors in 2004 was 5.5 nights. Those visiting friends and relatives tend to stay the longest (5.9 nights) with business visitors staying on average 2.1 nights.

The majority of visitors (84%) originate from the UK. Of the overseas market, Europe is the primary source of visitors with 7% of all visitors coming from France.

4.3. Government

The Bailiwick of Guernsey, comprising the islands of Guernsey, Alderney, Sark, Herm, Jethou, Brecqhou and Lihou, is part of the British Isles but independent of the United Kingdom. As a crown dependency, the Bailiwick has its own government body known as the States of Deliberation which legislates at insular and local level on all matters, including the raising and expenditure of taxes. Alderney and Sark each have their own insular legislature, judicial system and administrative systems. The Bailiwick of Guernsey is not a member of the EU, but benefits from an attractive trading relationship. Hence, the States of Guernsey has full powers to develop its individual legislation and policies.

The official language is English and the Pound Sterling is used in parallel to the locally circulated Guernsey Pound (which is tied directly to the Pound Sterling) issued by the Guernsey Treasury.

4.4. Economy

In 2004, the Bailiwick's GDP amounted to an estimated £1,419 million (£23,726 per capita). The GDP real growth rate has traditionally been strong within the Bailiwick of Guernsey, averaging 3% between 1995 and 2004.⁷

While in the mid 20th century the main growth drivers were tourism and horticulture, over the past 20 years the rapid development and growth in the financial sector has generated an average annual real GDP growth rate in excess of 3.6%. In recent years, the sector has contributed to over 30% of total remuneration and 40% of total profits within the Bailiwick⁸. As a result of past investment, the Bailiwick of Guernsey is today a leading

⁵ Further details on the Census maybe obtained by downloading the full 2001 Census Report. Alternatively a summary of important facts and figures on population may be gained from the 2004 Facts and Figures Guide available from <http://www.gov.gg/ccm/navigation/government/facts---figures/census/>

⁶ 2005 Guernsey Facts and Figures, States of Guernsey

⁷ 2005 Guernsey Facts and Figures, States of Guernsey Policy Council.

⁸ 2005 Guernsey Facts and Figures

offshore finance centre providing a variety of finance sector services such as banking, insurance, asset management etc. with more than twenty international banks having a presence on the island.

This vibrant banking business sector together with an active tourist industry on the island, attracted over 355,000 visitors in 2004. Visitors to the Bailiwick of Guernsey rely on mobile communications to stay in touch for business as well as personal reasons and represent a significant business opportunity over and above the local population. In addition, the relatively wealthy residential and business communities resident in the Bailiwick of Guernsey demand high quality value-added telecommunications services.

Thus, although the absolute size of the population will constrain the size of the local mobile telephony market within the Bailiwick of Guernsey (in terms of numbers), the presence of a vibrant internationally-focused and affluent banking community is likely to generate significant fixed and mobile business opportunities in its own right. It also contributes indirectly through the local support infrastructure for businesses supplying services to the banking sector, including general business services as well as the hotel and catering sector.

Key Economic Indicators of Guernsey		Neither value added tax nor capital gains tax is levied within the Bailiwick of Guernsey. Since 1960, companies and individuals have paid a flat income tax at the rate of 20%. The States Fiscal & Economic Policy
Size of country	127km ²	
Size of population	63,401	
Guernsey GDP (2004 estimate)	£1,419M	
GDP per capita (2004 estimate)	£23,726	
Real GDP growth (average 1995 to 2004)	3%	
Inflation (change in RPIX ⁹ , March 2005)	3.2%	
VAT	0%	
Corporate tax rate	20%	

Steering Group is currently consulting on the Bailiwicks' Future Economic and Taxation Strategy in order to comply with the EU's Code of Conduct on Business Taxation. The States intend to extend zero corporation tax regime by 2010 which requires identifying alternative government income streams to replace corporation tax. The Steering Group is currently proposed however that trading activities regulated by the Office of Utility Regulation should be subject to taxation at 20%¹⁰.

Currently, the inflation rate tends to run at one percent above that of the UK. At the end of September 2005 Guernsey's annual rate of inflation was 3.8%, a decrease from 4.6% at the end of previous quarter¹¹.

⁹ Annual percentage change in RPI excluding mortgage interest. 2005 Guernsey Facts and Figures, States of Guernsey Policy Council.

¹⁰ <http://www.gov.gg/ccm/treasury-and-resources/reports/future-economic-%26-taxation-strategy.en>

¹¹ Policy and Research Unit, States of Guernsey Policy Council – 19 October 2005

The size of the labour force is approximately 31,500 (working population at Q1 2004) with an unemployment rate of below 0.32%¹². Unemployment levels are measured by the number of people claiming benefit from the Guernsey Social Security Department. There were 101 claimants in Q1 2004 which is low compared to the total number of the Island's employees.

4.5. Telecommunications

The incumbent telecoms operator in Guernsey (the state-owned Guernsey Telecom) was bought by global telecommunications group Cable and Wireless in 2002 and renamed Cable and Wireless Guernsey ("C&WG"). An independent regulator for the telecoms sector was established in October 2001 and since then both the fixed and mobile telecoms markets have been liberalised and opened to competition.

There are currently two 2G operators active in the Bailiwick: Cable and Wireless Guernsey and Wave Telecom (owned by Jersey Telecom the Jersey incumbent operator); and one 3G operator, Wave Telecom. The first 3G licence was awarded to Wave Telecom in April 2003, and their 3G services were launched in July 2004. Both operators are required to provide mobile services on the main islands of the Bailiwick.

The current mobile penetration rate is over 80% although the bulk of this is in the 2G market. Therefore there is scope for increasing the number of subscribers and the associated revenues and new 3G subscriber numbers are increasing and existing 2G subscribers are demonstrating an increasing readiness for data communications.

In summary, 3G technology readiness is high within the Bailiwick of Guernsey and potential further uptake is there to be capitalised upon. Combined with a healthy economy, high population density, a growing telecommunications market and independent regulation, this shows the Bailiwick of Guernsey constitutes as an attractive market opportunity for potential investors in a 3G licence.

¹² 2005 Guernsey Facts and Figures, States of Guernsey

5. Comments on the Proposed Mobile Competition

The Preliminary Tender Document attached to this paper outlines the proposed tender process for licensing of a second 3G mobile network operator within Guernsey. In addition, the successful applicant for the 3G Licence may, upon request and subject to demonstrable need, also obtain the right to establish, operate and maintain a 2G mobile telecommunications network and to provide 2G mobile telecommunications services on the basis of GSM1800 spectrum.

It is envisaged that a successful applicant for the 3G licence, should they not already have a licence for 2G services in the Bailiwick, may view the establishment of a 2G subscriber base as an important part of building a 3G subscriber base. Thus spectrum for a 2G licence may be made available with the eventual aim of helping 3G networks become established in Guernsey, with all the social and economic benefits that will flow from this. It should be noted that only the applicant who has been successful in their application for a 3G licence will be considered for the award of 2G spectrum. This applicant will also have to comply with the specific minimum requirements in relation to their submission for 2G spectrum, in the areas of:

- Demonstration of justifiable need for 2G spectrum;
- Standards; and
- Network roll out and coverage.

5.1. Expressions of Interest in the 3G licence

The Director General seeks expressions of interest for submitting applications for the available 3G licence.

5.2. Expressions of Interest in 2G licence

There is a further 2G licence available which will only be made available to the winner of the 3G licence and only if the successful applicant can demonstrate a need for the 2G licence (e.g. the successful applicant's 3G business case is dependent on providing a new 2G network and services to enable migration of customers to the 3G service).

5.3. Network and Service roll out

The Preliminary Tender Document presents a set of minimum requirements for the 3G licensing process, including also some minimum targets for the roll-out of service. The Director General would be interested in views on the proposed milestones for network roll-out taking into account the aim of introducing competition into the 3G market and the financing implications for rolling out a network across the Bailiwick.

5.4. Design of the Competition

In respect of the proposed competition design outlined in the Preliminary Tender Document, the Director General has sought to establish a fair and level playing field for competition between incumbent operators and any new entrants to Guernsey's mobile telecommunications market.

The Director General therefore invites respondents to provide their views on whether the proposed design meets this objective and whether they have any suggestions for any additional measures that might contribute towards the objective of introducing sustainable competition into the Guernsey market to the benefit of Guernsey telecommunications users.

6. Overview of Competition Timetable

An overview of key milestones in the course of the competition process for the available 3G mobile licence (and 2G licence if applicable) is provided below:

Date	Event
14 th November 2005	Call for expressions of Interest and publication of Preliminary Tender Document.
16 th December 2005	Closing date for expressions of interest and comments on the Preliminary Tender Document.
1 st February, 2006	Launch of competition – Tender Document is available for purchase.
24 th February 2006	Deadline for the submission of questions relating to the Tender Document.
31 st March 2006	Deadline for submission of Applications.
1 st July, 2006	Planned Licence Commencement Date.

The Director General reserves the right to alter the above timetable.

Appendix 1 Preliminary Tender Document

Part 1 Details of the Competition

This Preliminary Tender Document is publicly available on OUR's web site (www.regutil.gg) to all parties interested in the competition for the award of Mobile Telecommunications Licences in Guernsey. The final Tender Document will be available to purchase from OUR from 1st February 2006 (i.e. the planned launch of the competition). Acquisition of the final Tender Document is a prerequisite for participation in the competition. However, submission of an expression of interest based on the Preliminary Tender Document is neither a requirement for participation in the competition, nor an entitlement to participate in the competition.

A brief Information Memorandum regarding the final design of the competition will be made available free of charge on OUR's web site when the competition is launched in February 2006.

1. Objectives of the Competition

Having regard to the general duties of the Director General as set out in section 2 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 ("the Regulation Law"), the overall objectives of the Director General in running this competition is to ensure the best in price, choice and quality services for Guernsey consumers consistent with a vibrant, sustainable telecommunications sector. In order to achieve this, the competition is designed to meet the following principal objectives:

- realise the successful introduction of competitive and sustainable next-generation mobile telephony competition in Guernsey by licensing a second operator to provide a 3G mobile telecommunications network and services; and
- to facilitate competition between the incumbent 3G operator and any new entrant 3G network operator in the Guernsey mobile market, and thereby promote further consumer choice in the mobile sector.

The successful applicant will obtain from the Director General the right to establish, operate and maintain a 3G mobile telecommunications network and to provide 3G mobile telecommunications services through the granting of a Mobile Telecommunications Licence¹³. The successful applicants will also require a Wireless Telegraphy ("WT") licence which they must obtain from The Office of Communications ("Ofcom") in the UK, to use frequency spectrum.

In addition, the successful applicant for the 3G licence may, subject to demonstrable need, also obtain a licence to establish, operate and maintain a 2G mobile telecommunications network and to provide 2G mobile telecommunications services on the basis of GSM1800 spectrum which is available.

¹³ Pursuant to Section 2(1) of the Telecommunications (Bailiwick of Guernsey) Law, 2001.

In the event that the available 3G mobile telecommunications licence is not awarded as a result of this competition, the Director General reserves the right to initiate a new competition for the grant of either the remaining 2G or 3G Licences (combined or on a standalone basis) at a later stage in order to promote further network based competition in the mobile market in Guernsey.

2. Number and scope of licences available

There is one 3G Licence available which the Director General may grant on the conclusion of this competition.

There is one 2G Licence potentially available to the successful Applicant who obtains the 3G Licence as a result of this competition should they request it and provided they are able to demonstrate a need for a 2G licence.

The above licences will grant the holder rights to operate networks and provide services on a Bailiwick-wide basis.

3. Additional Licensing requirements

Whereas this competition is for the granting of Mobile Telecommunications Licences under the Telecoms Law, successful Applicants will also need to obtain WT Licences from Ofcom in the UK in order to commence service as the Wireless Telegraphy Act, 1949 of the UK applies to the Bailiwick of Guernsey. As such, any person establishing or using any station for wireless telegraphy or installing or using any apparatus requires a WT licence from Ofcom unless specifically subject to an exemption regulation.

The Director General expects that the WT licence for 3G operation in the Bailiwick of Guernsey will be drawn up using the existing licence in UK as a template, (see Appendix 7). All relevant licence conditions and parameters (e.g. spectrum bands, geographical scope and fees) will be amended to ensure that these are appropriate to the Bailiwick of Guernsey.

Hence, in order to operate and use frequency spectrum in the Bailiwick of Guernsey for the provision of mobile telecommunications networks and services, an Applicant must obtain both a WT licence from Ofcom and a Mobile Telecommunications Licence from OUR. In practice, once the successful Applicant has taken up the Mobile Telecommunications Licence(s) granted by the OUR, the successful Applicant must apply for a WT licence(s) from Ofcom in accordance with the procedures and rules set by that authority. The OUR will support any successful Applicant in finalising this stage in the overall process. However the OUR and the Director General accept no responsibility for any delay or difficulties encountered by a successful Applicant in obtaining the necessary licence from Ofcom.

4. Available frequency spectrum

Ofcom has identified the following 3G frequency spectrum for the future holder of 3G Licences in Guernsey:

- One 3G frequency spectrum blocks of 2 x 10 MHz paired and 1 x 5 MHz unpaired in the 1900 / 2100 MHz spectrum bands. Details of the suggested spectrum band plan are shown in the figure below:

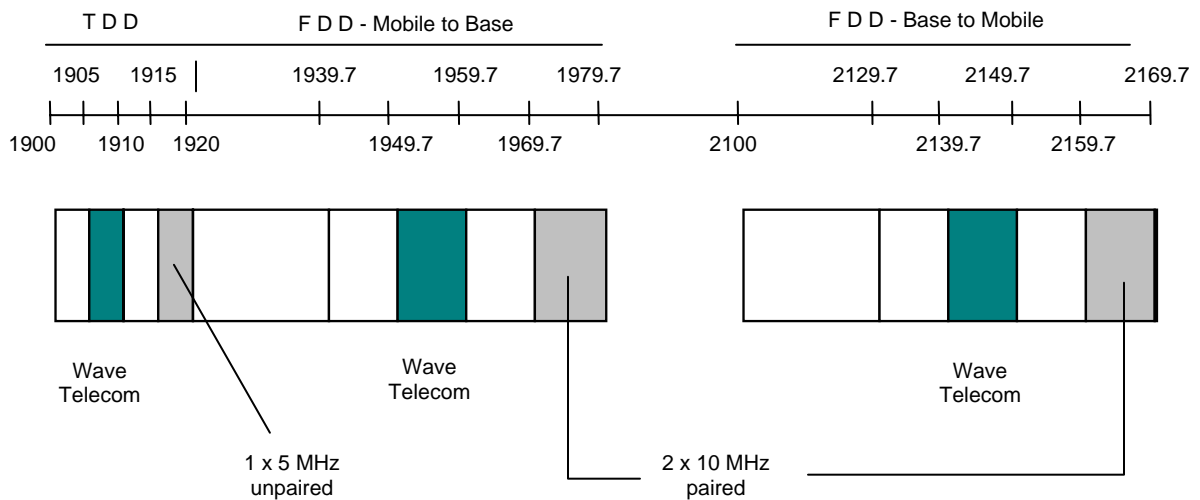


Figure 1 Frequency allocations identified for a second 3G licence in Guernsey.

It should be noted that guard bands will have to be accommodated from within the operator's allocated spectrum in compliance with ERC Decision 99/25.

Ofcom is engaged in discussions with the administrations of neighbouring countries to agree procedures for co-ordination between UK 3G mobile systems and the systems licensed by those administrations. The outcomes of these discussions will take the form of a Memorandum of Understanding (“MoU”) between the UK and each foreign administration. The MoUs will place restrictions on the permissible field strength at the neighbouring administration's border or coastline due to 3G transmissions from the UK. In the 2110 - 2170 MHz band, the agreed limit is a field strength of 45 dB μ V/m/5MHz at the French coast. This limit value is derived from the ERC Recommendation 01(10) “Border co-ordination of UMTS/IMT-2000 Systems”. The requirement to comply with MoUs is in the WT Licences.

In the Channel Islands and France, the terrestrial 3G mobile bands have been used for fixed links. Furthermore, Ofcom has identified DCS1800 2G frequency spectrum for assignment upon request to a 3G Licence holder in Guernsey, who is able to demonstrate

a need for 2G spectrum with the objective of operating a 2G mobile service in the Bailiwick.

5. Licence duration

The 3G Licence available pursuant to this competition will be valid for a period of 20 years from the Licence Commencement Date. The successful Applicant will have the right under its licence to serve notice on the Director General requesting an extension to its Mobile Telecommunications Licences, and the Director General will have the right to suspend or revoke the licence in specified circumstances.

6. Licence allocation method: 3G Licence

The 3G Licence available shall be allocated by way of an open competition based on a comparative selection method (“beauty contest”), which allows for the evaluation of Applications against a set of evaluation criteria reflecting the duties of the Director General under the Regulation Law and the objectives described in the Preliminary Tender Document.

Part 2 of this document provides a detailed description of the evaluation and selection process.

7. Minimum requirements: 3G Licence

Only those Applicants who comply with the following minimum requirements of the competition shall be considered for the granting of the 3G Licence.

7.1. Standards

The network and services offered by the Applicant must be based on a standard within the IMT-2000 family of standards.

7.2. Network roll-out and coverage

The timetable for the roll-out of the 3G network must be based on a commercial launch of service within 18 months of the Licence Commencement Date. Service must be offered on all the main islands within the Bailiwick (i.e. the islands of Guernsey, Alderney, Sark and Herm) within 24 months and coverage of 80% of the Bailiwick’s population by residence within five years of the Licence Commencement Date. In summary, assuming a Licence Commencement Date of 1st July 2006, the key dates going forward are:

- Commercial launch by: 30 December 2007;
- Service offered on main islands of the Bailiwick by: 30 June 2008; and
- Coverage of 80% of the Bailiwick's population by: 30 June 2011.

In order to interconnect its network with the existing fixed network of C&WG, the successful Applicant must have a Point of Interconnect ("POI") in the island of Guernsey complying with the requirements and specifications set out in the C&WG Reference Offer. The Reference Offer is available on the Cable & Wireless Guernsey website (http://www.cw.com/guernsey/products_services/wholesale/reference/) and the relevant interface specifications for interconnection are available in the Technical Manual.

7.3. Mast and site sharing

The owner of a mobile network infrastructure must accept that mast and site sharing (to a further specified level) with another mobile network owner may be required by the Director General. The Director General has the authority to resolve all disputes on this issue. Existing mobile telecommunication licences issued by the DG include a condition relating to Access to Facilities (see Appendix 6 and OUR website for licence texts).

The States of Guernsey is a significant landlord within the Bailiwick and owns many of the existing mast sites. The States as a landlord has confirmed that these existing sites and any other locations could be made available to a mobile operator if such an arrangement proved feasible and subject to usual approval procedures of commercial and environmental nature, including planning approval.

7.4. Sharing of network infrastructure

The Director General would welcome arrangements between licensed network operators to establish technical network sharing for parts of the network. However, operators must as a minimum build their own radio access network covering the three towns of St. Peter Port, St. Sampson's, and St. Martins. Furthermore, operators are not permitted to share use of frequencies and must maintain independent logical control of core elements of the respective networks.

7.5. Soundness and feasibility of the business plan

In order to satisfy the Director General of their financial and technical capabilities to establish and operate a 3G mobile telecommunications network, Applicants are required to demonstrate the soundness and feasibility of their 3G business plan (including the 2G licence application if applicable).

7.6. Commitment to MVNO's and Service Providers

An Applicant must indicate in its application its agreement to offering access for MVNO and/or service provider operations on its 3G mobile telecommunications network in the following terms;

- timing of publication of reference offer(s) for MVNO and/or service provider access measured in months from commercial launch of the Applicant's network;
- pricing methodology proposed for charging for MVNO and/or service provider access, including examples demonstrating the methodology of calculation of wholesale prices for both voice and data;
- any significant terms and conditions to be complied with by parties requesting MVNO and/or service provider access, e.g. requirements regarding minimum traffic usage levels; payment of up front fees; restrictions on use of network capacity;
- penalties in case of non-compliance with conditions and any other significant terms and conditions.

The requirement for MVNO access is required in the event that the successful applicant becomes the sole mobile telecommunications network operator (of either a 2G or 3G network) over the duration of the licence period.

A binding statement confirming an Applicant's agreement to offering access on these terms is a minimum requirement of this competition. Notwithstanding this, applicants should be aware that the Director General will only rely upon a binding offer in these terms and require its implementation if over the duration of the licence there is only one licensed mobile telecommunications operator in the Bailiwick of Guernsey.

7.7. Payment of Fees

Payment of the application fee/deposit fee (see section 10) is also a minimum requirement for entry into the competition for the 3G Licence.

8. Evaluation criteria – 3G licences

The comparative evaluation for the award of 3G Licences will be carried out by assessing the eligible Applications against the following six criteria. If Applications do not comply with the minimum requirements, then they will not be considered to be eligible.

Applications not including details of proposals to satisfy the criteria will not be considered in the evaluation phase of the competition. The relative importance of each criterion is indicated by the attached weight.

Weights	Evaluation criteria
15%	Coverage
15%	Technical network quality
20%	Speed of roll-out
15%	Network sharing
15%	Promotion of competition
20%	Performance guarantees
100%	

9. Standards

Various technology standards are being developed for 3G. In an effort to harmonise these standards, the International Telecommunications Union (ITU) has established a family of standards known as International Mobile Telecommunications 2000 (IMT-2000). For 3G, Applicants are required to adopt standards from the IMT-2000 family of technology standards. Applicants interested in the 2G licence are required to adopt the GSM standard.

10. Fees and deposits

Applicants should note that there are a number of fees payable in relation to the licence (s) offered. These fees consist of both once off and recurring charges. Payment of the application fee/deposit is a minimum requirement of this competition. These fees are described below.

10.1. Application fee/deposit

The previous round of licence competitions held by the OUR resulted in the award of one 3G licence at a cost of £250,000. The recipient also received a 2G licence as Wave Telecom was able to demonstrate a justifiable need for the spectrum. Wave Telecom and Cable & Wireless Guernsey both received 2G licences free of charge.

It is therefore proposed, in the interest of equity, that the same fee of £250,000 be charged for the current 3G licence to cover the administration of the process leading to the award of the licence offered here. The OUR anticipates that this fee should cover the costs of the licence award but in the event that the administration costs are higher than the Successful Applicant will be required to pay the balance¹⁴.

¹⁴ The fees in section 11.1 are illustrative and based on the current estimate of the cost of running the competition. The estimate of the £250,000 Application Charge is a minimum charge.

In order to cover the costs of the competition, each Applicant must provide a valid bank cheque for £100,000 as a deposit with their Application. The Director General intends to cash the cheque within five working days of receipt of same. However only the successful Applicant offered a licence shall be liable for the licence fee, so that in the event that an Applicant is not offered the licence, the deposit will be refunded and no further fees will become due. Should an Applicant be awarded and then decline a licence offer, the Applicant will be liable for the full Application fee of £250,000 (i.e. will be required to pay the balance of £150,000 before being awarded the licence).

The successful Applicant will be required to pay the outstanding balance of a further £150,000 when awarded the licence. Applicants will not be entitled to recover any interest earned by the OUR on any fees paid to the OUR in connection with this competition.

10.2. Spectrum assignment fee

OUR have been informed by Ofcom that Applicants offered a WT licence from Ofcom will not be liable to pay a one-off spectrum assignment fee.

10.3. Annual frequency fee

Ofcom has indicated that holders of a WT licence will be liable to pay an annual licence fee to cover the costs of frequency management activities to Ofcom. The current annual frequency fee for 3G spectrum is £320 per 2 x 200 kHz channels, payable annually. Given an assignment for the 3G licence of 2 x 10 MHz + 5 MHz this amounts to £20,000 per 3G operator per annum.

10.4. Annual licence fee to the OUR

In accordance with the Telecommunications (Bailiwick of Guernsey) Law 2001 section 6, the Director General will impose on holders of a Mobile Telecommunications Licence an annual licence fee to cover OUR's costs of regulatory activities in the Bailiwick of Guernsey. It is proposed that annual licence fees will be set on the basis of relevant turnover of the licensed business as set out in document OUR 02/31 available from the OUR website (www.regutil.gg).

Part 2 The Application and licensing procedure

11. Purchase of the final Tender Document and registration

Whereas this Preliminary Tender Document is available as part of the call for Expression of Interests and Call for Comments, the final Tender Document will only be available through purchase from the OUR for the price of £5,000. For the avoidance of doubt, registration and purchase of the final Tender Document is a prerequisite for participation in the competition. There are no obligations associated with the purchase of the document.

In order to facilitate communication between potential Applicants and the OUR, a certificate of registration, included in print as Appendix 1 (and electronically on the attached CD-ROM), must be completed and forwarded by email to 3Gcompetition@regutil.gg within three working days of receipt of the Tender Documentation. All correspondence between the OUR and the potential Applicant will be through the contact person (or his/her substitute) designated in accordance with the certificate of registration.

An Information Memorandum containing key facts regarding the design of the competition as well as background information on the Guernsey economy, telecommunications market and regulatory regime, will be publicly available free of charge on OUR's web site from at the same time.

12. Questions relating to the Tender Document

Potential Applicants registering for the competition may submit written questions via email to 3Gcompetition@regutil.gg. Only questions concerning the Tender Document will be dealt with. Accordingly, the Director General will not provide any further information about matters such as the evaluation process and methodology, other than the information made available in this Tender Document.

Only questions forwarded by e-mail will be accepted. Any questions from parties who have not purchased the Tender Document will not be answered. The final deadline for the Submission of questions is 12 noon (GMT) on 24th February 2006. Questions received after this deadline will not be answered.

The Director General will share the answers to any questions received with all parties that have purchased the tender document. The Director General however will not disclose the identity of the party posing a question, except where he may be legally obliged to do so.

13. Submission of Applications

A sealed Application for the Mobile Telecommunications Licence shall be submitted no later than 12 noon (GMT), Friday 31 March 2006 to:

Office of Utility Regulation
Suites B1 & B2
Hirzel Court
St Peter Port
Guernsey GY1 2NH

Applications received after the deadline will not be considered and will be returned. Any requests by the Applicant for an extension to the time period allowed for the preparation of an Application will not be accepted.

The Application shall be addressed as stated above and shall be clearly marked:

“APPLICATION: MOBILE TELECOMMUNICATIONS LICENCE – GUERNSEY”.

An Application shall also be clearly marked with the Applicant's name and address. An Application should comprise five paper copies, including supporting documentation. In addition, electronic copies of the Application should be submitted on five sets of virus-free CD ROMs. In case of discrepancies, the paper version shall take precedence.

An Application shall be accompanied by a completed Declaration for the submission of an Application (see Appendix 2) and a crossed bank cheque for the sum of £100,000 made payable to the Director General of Utility Regulation to cover the Application fee.

The opening of the Applications that have been submitted within the specified time will take place at a closed meeting at the OUR's offices on the day of delivery.

14. Publication of names of Applicants, but not of Applications

The Director General may announce such limited information about the Applicants as he deems appropriate following the deadline for receipt of Applications. Each Applicant should indicate in a cover letter to the Application its preference as to how it may be described.

As a minimum, the names of all of the Applicants will be published. Information contained in the Applications will be treated as confidential and will not be disclosed, except where the Director General is required to do so in order to comply with his statutory obligations and/or where the Director General is required by operation of law to do so.

15. Provision of further information from Applicants

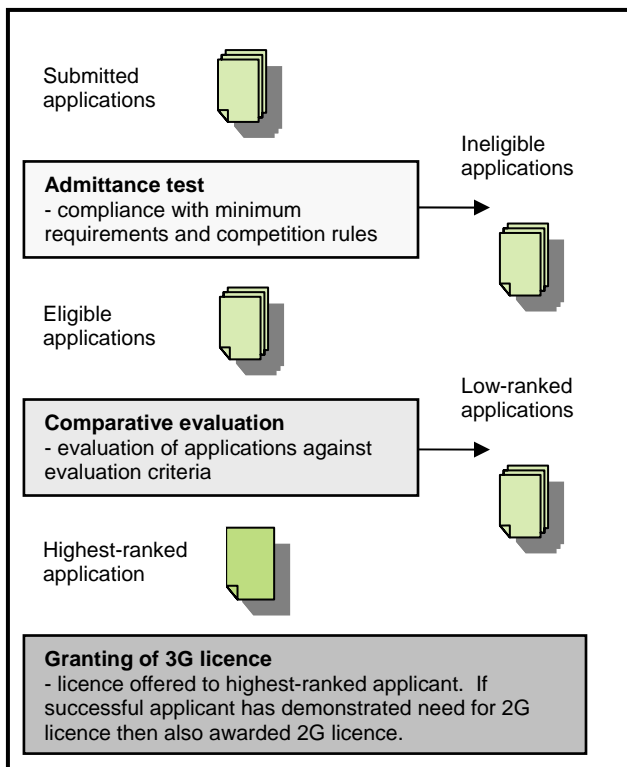
The Director General reserves the right to request an Applicant to submit further material and documentation, in addition to the information already provided in their Application, within such time and in such format as the Director General may stipulate. Specifically, if the Applicant does not fulfil the minimum requirements of the tender, the Applicant will be given one week from the date of the written notice to the Applicant of such non-compliance to rectify the Application.

16. Evaluation of the Applications

All Applications which are received before the deadline will be subjected to a two-stage evaluation and selection process as follows:

16.1. Stage 1: Admittance test

All Applications must pass an admittance test in order to distinguish those Applicants which are eligible for the award of the 3G Licence, i.e. by identifying those Applications which comply with the minimum requirements and the rules of the competition. Only those Applications that:



- comply with the rules of the competition; and
- fulfil the minimum requirements at the time of Submission, or
- fulfil the minimum requirements within one week of notification from the OUR where such a period is granted to rectify a non-compliant Application,

will be considered and deemed eligible to participate in the second stage of the comparative evaluation process.

16.2. Stage two: Comparative evaluation

All eligible Applicants will be evaluated against the criteria set out in section 8 regardless of the number of Applicants.

The evaluation will be based on the eligible Applicants' Submissions in relation to a set of predefined evaluation criteria for the award of 3G Licences, as described in section 8.

Applicants will be evaluated on the basis of Commitments submitted in their Applications. All Submissions in the Applications will be considered binding Commitments, unless otherwise indicated by Applicants. Any indications of a Submission being non-binding on the Applicant should be clear and unambiguous. Applicants are themselves responsible for making the nature and extent of each of their Commitments clear to the readers of the Applications. In the event of ambiguous or vague Submissions being contained in an Application, these will be narrowly construed by the Director General and the Applicant will receive fewer or no evaluation points as a result. Through this process, the highest ranked Applicant for the 3G licence will be identified. A simplified overview of the process for the granting of 3G licence is shown above. Should the successful applicant request a 2G licence and can demonstrate a justifiable need for the licence, the Director General will also award a 2G licence to the successful applicant.

Comparative evaluations of the Applications will comprise both quantitative and qualitative assessment. The Applications will be subjected to a scoring system for each criterion comprising marks according to a five-point scale, 0 being the lowest mark and 4 being the highest mark. The Applicant's score for each criterion will be weighted by the weightings shown in section 8 and then summed. The applicant with the highest score will become the successful Applicant.

The consistency and credibility of the information provided in the Applications will be assessed. If the evaluators identify inconsistencies or information which is not deemed credible, then the evaluators may reduce the scoring accordingly. Where a licence(s) are offered to the successful Applicant, the Director General intends to incorporate conditions into the licence based on the Commitments contained in the Applicant's Application. In any event, the Director General reserves the right not to award a 3G licence. Without prejudice to the generality of the foregoing, the Director General may refuse to grant a licence in circumstances where a licence has been offered to an Applicant but where the Applicant does not accept the terms and conditions of the licence, including the incorporation into that licence of any binding Commitments contained in the Applicant's Application.

The results of the competition will be communicated to each Applicant in the form of a summary report comprising the result of the evaluation with respect to each Applicant's individual Application (however no comparative analysis, or comparative reasons for success or rejections will be given).

17. Announcement of successful Applicant

The Director General intends to announce the highest ranked Applicant no later than 31st May 2006. All Applicants will be notified in writing of the results of the competition.

18. Award of licence

It is the intention of the Director General to conclude the licensing process with the successful Applicant as quickly as possible after the announcement of the results of the evaluation process. The Director General intends to award the licence by 1 July 2006. Details of the new licensee and the relevant licence(s) will be made publicly available from OUR's website upon the grant of the licence(s), subject to the protection of any information deemed to be confidential by the Director General.

19. Overview timetable

An overview of key milestones in the course of the competition process is provided below:

Date	Event
1 st February, 2006	Launch of competition – Tender Document is available for purchase.
24 th February 2006	Deadline for submission of questions relating to the Tender Document.
31 st March 2006	Deadline for submission of Applications.
1 st July, 2006	Planned Licence Commencement Date.

The Director General reserves the right to alter the above timetable.

20. Structure, content, size, and language of the Applications

The structure, content, size and language of an Application shall follow the requirements prescribed in this section. Applicants applying for both a 2G and 3G licence should submit information regarding both licence types in one single Application.

20.1. Structure and content

The various elements of the Application shall be inserted in separate parts referring to the headings indicated below:

Part 1:	Executive summary
Part 2:	General information on the Applicant and the Application
Part 3:	Competence and experience of the Applicant
Part 4:	Business plan
Part 5:	Commercial aspects (including demonstration of need for 2G licence if appropriate)
Part 6:	Technical aspects for 3G
Part 6a:	Technical aspects for 2G (if appropriate)
Part 7:	Financial aspects
Part 8:	Performance guarantees for 3G
Part 9:	Other aspects and supplementary information
Part 10:	Mandatory tables

The Application shall follow the structure and order stated above. Where relevant, the Applicant shall complete all mandatory tables and text boxes. These, and all other, Submissions will be subjected to the comparative evaluation and may be reflected in the conditions of the Mobile Telecommunications Licence, in the event that the Applicant is successful.

The Application shall include a CD-ROM with the tables contained in Appendix 5 with all the mandatory tables completed. A CD-ROM (format Excel) with the relevant templates is enclosed as Appendix 8 to the Tender Document. The data structure on this CD-ROM must not be altered, nor may the order of the tables be altered. The Applicant shall ensure that the CD-ROM is virus-free when it is returned to the OUR.

The information to be included in each individual part of the Application is described in more detail in Appendix 5 (to be included in final Tender Document).

20.2. Size

Each Application for a licence shall not exceed 100 (or 120 standard pages, if the Application is also for the 2G Licence) standard pages (A4 format) of 2,000 keystrokes, excluding annexes, supplementary information, and coverage maps. For illustration of the network architecture and coverage maps, a paper format larger than A4 may be used. Material beyond this will not be included in the evaluation.

20.3. Language

The Application, any questions asked and the replies shall be written in English, which will be the binding language.

21. Competition rules

The following rules will apply for the competition for the award of the 3G Licence:

- a) The Director General reserves the right not to award the available licence.
- b) An Applicant may submit only one Application for a 3G Licence in the competition, and one Application for a 2G Licence. Both Applications should be submitted in the one Application document.
- c) The Director General requires that Persons participating in the competition are independent entities whose policy and operational decision-making are not influenced by any common shareholders or other connections. Persons submitting Applications are required to submit supporting documentation to establish their independence.
- d) A determination as to whether two or more Persons submitting Applications are associated Applicants shall be at the discretion of the Director General. No more than one member of an associated Applicant Group may participate in the competition. If after the competition, the Director General determines that the holder of a 3G Licence was an associated Applicant during the competition, the Director General reserves the right to take such actions as considered appropriate by the Director General, including the revocation of a licence in accordance with the process and procedures set out in the Telecommunications Law.
- e) Changes in the Applicant's ownership circumstances during the course of the competition (i.e. from submission of Applications to the grant/refusal of a licence) which may result in association of two or more Applicants in the competition, shall be immediately communicated to the Director General.
- f) Applicants who do not meet the minimum requirements will be given one week to rectify their Application.
- g) By participating in this competition, an Applicant accepts the rules of the competition.
- h) By participating in this competition, an Applicant accepts that its Application is an irrevocable and unconditional offer that will remain valid and binding on the Applicant for the period of the competition or until such time as the Applicant has been granted or declined a 3G Licence, or the Director General has otherwise terminated the competition and, unless expressly stated to the contrary by the

Applicant, the Director General will treat all Submissions contained in an Application as binding Offers and may incorporate such Submissions into the terms and conditions of the licence to be awarded.

- i) By participating in this competition, an Applicant accepts that Commitments submitted in its Application will be reflected as specific licence conditions, should it be granted a Mobile Telecommunications Licence as a result of this competition.
- j) Applicants will be evaluated on the basis of Commitments submitted in their Applications. All Submissions in the Applications will be considered binding, unless otherwise indicated by Applicants. Any such indications of a proposal being nonbinding on the Applicant should be clear and unambiguous. It is the responsibility of each Applicant to make the nature and extent of each Commitment in its Application is clear to the readers of the bids. In the event of ambiguous or vague Submissions being contained in an Application, these will be narrowly construed by the Director General and the Applicant will receive fewer or no evaluation points as a result.
- k) The Director General reserves the right to supplement, suspend, terminate or otherwise alter this competition. If there are factors which in the opinion of the Director General prevent a full and informed comparison, including but not limited to lack of suitable Applications or similarities in Applications which cannot be explained as coincidence, the Director General reserves the right to cancel the competition. If there is evidence of collusion, the Director General will take appropriate action.
- l) In the event that the 3G Mobile Telecommunications Licences available in this competition should not be awarded, it may be re-tendered by the Director General, by way of a new competition or some other allocation procedure.
- m) Granting of a Mobile Telecommunications Licence is dependent upon the successful Applicant's incorporation under Guernsey Law. There is no requirement for Applicants to be incorporated in the Bailiwick of Guernsey at the time of submission of the Application.
- n) The Application shall conform with all terms of the tender, including the requirements relating to the structure, form and content of the Applications as set out in section 20.
- o) The Director General does not accept any liability for any expenses arising in connection with the preparation and Submission of the Application, nor for expenses arising in connection with all prior or later enquiries in relation to this competition.
- p) Although every care has been taken in preparing this Tender Document, no representation, warranty or undertaking, expressed or implied, in respect of any error or misstatement, is or will be made or given, and no responsibility or liability will be

accepted by the Director General or by any of his officers, employees, servants, agents or advisers as to the accuracy or completeness of this document or any other written or oral information made available to any interested party or its advisers concerning this document, and any liability howsoever arising (including in respect of this tender process) is expressly disclaimed. No information contained in this document shall form the basis for any warranty or representation by or term of any contract with the Director General. The Director General makes no representations and warranties in respect of the viability of the market or accuracy of the contents of this Tender Documentation so that Applicants and potential Applicants are responsible for their own verification and due diligence.

Appendices

- Appendix 1 Certificate of Registration
- Appendix 2 Declaration for the Submission of an Application
- Appendix 3 Definitions & Assumptions
- Appendix 4 List of Selected Abbreviations
- Appendix 5 Content and Structure Requirements for an Application
- Appendix 6 Pro forma set of telecommunications licence conditions from OUR
- Appendix 7 Pro forma set of WT Licence Conditions from Ofcom
- Appendix 8 CD ROM