

Office of Utility Regulation

Competition for Mobile Telecommunications Licences

Response to Consultation,
Call for Expressions of Interest, and Call for
Comments on Preliminary Tender Document

Document No: OUR 02/21

July 2002

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

Contents

1. Introduction.....	3
1.1. Background.....	3
1.2. Developments to Date.....	3
1.3. Objectives of Paper.....	4
2. Procedure and Timetable	4
3. Structure of the Paper.....	5
4. The regulatory regime in Guernsey	6
4.1. Background.....	6
4.2. Responses to the Consultation Paper	7
5. The Guernsey Economy and Telecommunications Market.....	12
6. Specific Questions for Potential Applicants	15
Appendix 1 Preliminary Tender Document.....	16

1. Introduction

1.1 Background

This document is one of a series of published documents that the Director General of Utility Regulation in Guernsey (“the Director General”) is issuing as part of the process of awarding two 3G mobile telecommunications licences in the Bailiwick of Guernsey. The Director General is also making available a second 2G mobile telecommunications licence.

The two 3G mobile telecommunications licences will come into force on 1st April 2003 and at the same time, one of the successful applicants for a 3G licence may be able to acquire a 2G licence. The licences will be awarded through a comparative selection process and the Director General has appointed Andersen Management International A/S (“AMI”) of Copenhagen to act as advisors to the Office of Utility Regulation (“OUR”) in relation to the preparation and execution of the competition.

1.2 Developments to Date

In May, 2002, the Director General published a consultation paper, 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 published in December 2001 and the subsequent “Report on the Consultation and Decision Paper”³ published in April 2002. The May Consultation Paper sought the views and comments of interested parties on issues and principles to be applied to the new mobile telecommunications network licences bearing in mind the Director General’s intention to develop a licensing regime that is intended to foster 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.

The Director General welcomes the UK’s Radiocommunications Agency’s publication of its consultation paper “Implementing Spectrum Trading”⁴ which seeks views on the Agency’s plans for introducing spectrum trading. Spectrum trading should bring considerable benefits for businesses and consumers through contributing towards a dynamic and competitive communications market. The Director General therefore intends to allow for spectrum trading within the licences in accordance with the enactment of the Communications Bill in the United Kingdom. The inclusion of provisions for spectrum trading is therefore designed to provide the maximum commercial and operational flexibility to mobile licensees in Guernsey.

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

⁴ Available from Radiocommunications website www.radio.gov.uk

1.3 Objectives of Paper

The objectives of this paper are to:

- report on the responses to the May Consultation Paper;
- set out the proposed design of the competition process for 2G and 3G mobile telecommunications licences 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.

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

In particular, the Director General calls on potential applicants for the licences 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 that are substantiated by supporting evidence are particularly welcome.

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 30th August 2002 as shown in the timetable set out in Section 2.9 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.

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.

2. Procedure and Timetable

AMI will be managing elements of the competition process, including the communication with potential applicants and other interested parties on behalf of the OUR and receipt of the responses to this call for expressions of interests and comments⁵.

⁵ The detailed 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 (on paper or in electronic form) and should be received by AMI before 4.00pm on Friday 16th August, 2002 (Guernsey time).

Written comments should be submitted to:

Andersen Management International A/S
Kristianiagade 7
DK-2100 København Ø
DENMARK

Email: 3guernsey@ami.co.dk

All comments should be clearly marked “Competition for Mobile Telecommunications Licences - EOI and comments on preliminary tender document”.

The Director General reserves the right to make extracts or entire submissions public. Any material that is confidential should be put in a separate Annex and clearly marked so that it can be kept confidential. Such material will not be made publicly available.

3. Structure of the Paper

The paper is structured as follows:

- Section 4 describes the telecommunications regulatory regime in the Bailiwick of Guernsey and reports on OUR’s consultation paper issued on 17th May 2002⁶. The section also outlines other key regulatory issues relevant to the mobile telecommunications licences;
- Section 5 provides some background information on the Guernsey economy and mobile telecommunications market;
- Section 6 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 included as Appendix 1.

⁶ OUR Document xx/02

4. The regulatory regime in Guernsey

4.1 Background

The Telecommunications (Bailiwick of Guernsey) Law, 2001 (the “Telecoms Law”) and the Regulation of Utilities (Bailiwick of Guernsey) Law 2001 (the "Regulation Law") both came into effect on 1st October 2001 and comprise the principle legislation relating to the telecommunications sector in Guernsey.

This legislative package for telecommunications was designed to:

- ensure that Guernsey consumers receive the best in terms of price, choice and quality of telecommunications services, and
- ensure that the Bailiwick of Guernsey has a vibrant, innovative and sustainable telecommunications sector.

The new legislation created OUR and charges the Director General with a wide range of functions and duties and also provides for the government, the States of Guernsey, to issue specific policy Directions to the Director General. The States has issued such Directions⁷ in relation to universal service and the extent of competition in the telecoms sector.

Together, the legislation and States Directions provide for the manner in which the telecommunications markets in Guernsey are to be opened to competition and empower the Director General to draw up and issue licences for the provision of telecommunications networks and telecommunications services in Guernsey. Within this context the Director General has already announced that competition in the mobile telecommunications market will be possible from 1st April 2003.

Currently there is only one mobile telephony operator within the Bailiwick of Guernsey – the incumbent operator Guernsey Telecoms Ltd., (“GT”). GT operates a GSM system, also known as 2G, using frequency spectrum in the 900 MHz range in accordance with two licences that it holds namely:

- a frequency spectrum licence issued by the Radiocommunications Agency ("RA") in the UK, which authorises GT to use the designated frequencies; and
- its Mobile Telecommunications Licence, issued by OUR on 1st October 2001 which authorises it to provide mobile telecommunications networks and services in the Bailiwick of Guernsey⁸ for a period of 15 years.

Successful applicants for the mobile telecommunication licences available from OUR will also require frequency spectrum licences from the RA.

⁷ Billet d’Etat No VI, 2001

⁸ Prior to this date, GT operated mobile networks and services by virtue of the 1972 Telecommunications Law.

4.2 Responses to the Consultation Paper

OUR received responses to the consultation paper from GT, Jersey Telecoms (“JT”), Links Communications and Newtel. The Director General is grateful for the input of the respondents and the responses along with the Director General’s comments are summarised in the sub-sections below.

4.2.1 Licence Structure

The Director General proposed that similar terms and conditions should apply to all licenses wherever possible and that the structure of the new mobile telephony licences that will be issued to new licensees will therefore be broadly similar to GT’s current mobile licence⁹. Taking into account the decision to award the new licences using a comparative selection competition, the Director General recognised that it may be necessary to tailor individual licences to reflect the successful applicants’ submissions and proposals. She therefore reserved the right to insert specific licence conditions in individual licences to reflect this. Comments were invited on this approach.

Views of the Respondents

There was no indication from any of the respondents that any alternative approach was preferred and the overall approach was noted by two respondents while another expressed explicit agreement with the proposed scope and purpose of the proposed licence conditions and also provided a number of detailed comments on specific conditions.

Director General’s Position

The Director General welcomes the support for the general structure of the licences. In order to provide potential applicants and interested parties with an understanding of the licence holders’ general rights and entitlements under its licence and the obligations that they must meet, a proforma set of licence conditions will be included as an Appendix 5 to the Final Tender Document. As noted above however, the final licences awarded to the successful applicants will include additional conditions based on commitments expressed in their submissions.

4.2.2 Licence Duration and Renewal

The Director General sought views on the proposed licence durations of 15 and 20 years respectively for 2G and 3G licences.

Views of Respondents

Three respondents agreed with the Director General’s proposals but one also expressed the view that the licence should continue on a rolling basis without needing explicit renewal.

Director General’s Position

The Director General welcomes the support for her proposal to offer:

- A 2G licence for a period of 15 years from the licence commencement date; and
- Two 3G licences for a period of 20 years from the licence commencement dates.

⁹ Document No OUR 01/19 Mobile Telecommunications Licence Conditions

In all instances the licensees may serve notice on the Director General requesting an extension to the licence as is the situation in relation to the existing mobile licence. However the Director General does not consider automatic renewal is appropriate as the specified time periods provide a reasonable balance between the need to retain flexibility for long term service and technology evolution, whilst providing operators with sufficient time to achieve a reasonable return on their rollout investments. These licence durations are also in line with international best practice.

4.2.3 National Roaming and Network Roll out

The Director General set out various options for balancing the obligations on new entrants to roll out network, with the advantage that the incumbent operator enjoys by virtue of owing an existing network throughout the Bailiwick. These options comprised mandated roaming for three years from the licence commencement date and network roll out within four to five years of the licence commencement date.

Views of the respondents

The respondents to the consultation expressed a number of comments on national roaming and network rollout with two agreeing with the OUR's proposals. One disagreed with the Director General's proposals making the following arguments:

- National roaming would provide no incentive to the new entrant to roll out own infrastructure;
- Rollout timetables for the 3G licences should be the same;
- Population coverage of 100% for the 2G licence was unrealistic and geographic coverage should be incorporated to account of Alderney, Sark and Herm;
- Coverage should be clearly defined to avoid confusion.

Director General's Position

A principal objective of the competition is the successful introduction of sustainable competition in Guernsey's mobile telephony market through the licensing of two operators for the provision of third generation (3G) mobile telecommunications and services. However a successful applicant for a 3G licence, who is a new entrant to the Guernsey market, may upon request and subject to demonstrable need also obtain a licence to operate a second generation (2G) mobile telecommunications licence. Mandating national roaming on the incumbent operator's 2G network for a limited period where this is required will, in the Director General's view and from experience in other jurisdictions, provide market entry assistance and reduce barriers to entry for new entrants thereby contributing towards the creation of a sustainable competitive market.

With regards to network roll out and coverage, the Director General considers that the responses highlight the fact that the consultation was preliminary in nature and she agrees that it is necessary to clarify and develop the proposed licence obligations in more detail to assist applicants. The Director General's proposals in this regard are set out in more detail in the Preliminary Tender Document attached to this Consultation Paper and comments are welcome.

4.2.4 National Roaming Charges

The Director General proposed that commercial negotiation of roaming agreements is the best option for the market, but where disputes arose and regulatory intervention was necessary, the adoption of a retail minus approach to setting roaming charges would be most efficient and would give new entrants certainty that if operators cannot agree on terms then they would be able to obtain national roaming at a level which fosters competition with the market. The principal advantage of using retail minus is the speed of implementation as it does not rely on the detailed capturing and measurement of costing information, which means that competition could be introduced quickly for the benefit of consumers.

Views of the Respondents

Three respondents agreed with the Director General that commercial negotiation of roaming agreements is the preferred option from a regulatory perspective and presupposes that both parties can see mutual advantage in the transaction.

One respondent believed a pragmatic solution using a combination of retail minus or cost based pricing would be the most effective means of determining roaming charges while another argued that new players should initially be afforded cost oriented access to existing GT resources.

Director General's Position

The Director General will not specify or predetermine the structure of charging which might emerge from a commercial roaming agreement, but would become involved through dispute resolution mechanisms when a commercial agreement could not be realised. Whilst recognising the desirability of fully cost oriented charges, the Director General will use the charging structure that allows for timely decisions and provides certainty in the market which is in the interest of all parties.

4.2.5 Number Portability

Whilst recognising international best practice is moving towards requiring mobile telecommunication network operators and MVNOs to implement mobile number portability these decisions have been taken after detailed economic cost benefit analyses¹⁰. These studies have typically shown high start up costs (e.g. around £9m in current prices in the UK) with additional annual operating costs.

Noting the potential cost and implementation overhead of introducing immediate mobile number portability on all mobile telecommunication licensees, the Director General suggested that this would be more appropriate to consider when the new licences had been issued and the players in the market could participate fully in a consultation on the

¹⁰ E.g. Oftel: 7/97 Economic Evaluation of Number Portability in UK Mobile Telephony Market; ODTR: Mobile Numbering and Mobile Number Portability in Ireland - Consultation Paper 00/86 & Ovum Report to ODTR JCD50

costs and benefits. Therefore the Director General proposed not to require immediate mobile number portability on mobile telecommunications licensees within the Bailiwick.

Views of the Respondents

One respondent disagreed with the Director General's proposed decision not to require immediate mobile number portability on all mobile telecommunication licensees believing that it would represent a significant switching cost. This could serve as a disincentive for consumers wishing to change operators however two other respondents supported the Director General's proposed decision.

Director General's Position

Whilst recognising the benefits of number portability, the Director General continues to be of a mind not to require immediate mobile number portability on mobile telecommunications licensees within the Bailiwick until new licences have been awarded and a more thorough examination of the costs and benefits undertaken. The Director General will therefore continue to monitor and review this requirement over time and all options would have to be explored in a consultation process that involved the industry, so that any solution would have full industry commitment.

4.2.6 Facility Sharing

The Director General proposed to include within the new licences a condition requiring mast sharing where it was deemed necessary for environmental purposes as a means of minimising the overall number of masts in the Bailiwick and addressing the limited number of suitable location for masts within the Bailiwick. The Director General sought views on this proposal and whether there should be sharing of any other facilities

Views of the Respondents

One respondent supported the Director General's proposal to include within the new licences a condition requiring mast sharing where it is deemed necessary for environmental purposes. This would have the effect of making mast sharing mandatory on a commercial basis once a need for the sharing of the facility had been demonstrated.

A second respondent believed that mast sharing would be an essential enabler to promote entry into the Guernsey market and that the decision should be such that mast sharing must be made available wherever it is technically feasible.

Another respondent was concerned that the proposals on mast sharing could be predicated on a misunderstanding as regards to the ownership of masts and buildings. The respondent pointed out that of the existing 12 2G base stations in Guernsey (i.e. excluding any base stations on Alderney, Herm and Sark); only four are actually owned by GT. GT has rental agreements for accommodation for the hardware and has either connected aerials directly to the structures, or in two cases on masts owned by the third parties. The same respondent did not believe that there should be any other sharing of facilities (other than masts) while another wished to see the sharing of facilities extended

to include wholesale access to the incumbent's local loop facilities and the availability of private circuits to support the new entrant's network.

Director General's Position

The Director General considers that the range of responses identifies this is an issue of significant importance to players in the market. She notes that addressing mast sharing between licensed telecoms operators may only address some of the sites available in Guernsey and other organisations may own or operate sites that telecoms operators may want to have access to.

The Director General does not believe there is currently a case for mandating the sharing of masts in every case where it is technically feasible. A refusal from the relevant planning authority on environmental grounds however does represent a barrier to entry that should be eliminated.

Therefore the Director General remains minded to require mast sharing where it is deemed necessary for environmental reasons.

With regards to other forms of facility sharing, the licensed 2G and 3G operators will have access to GT's fixed network on the same terms as all other licensed operators in Guernsey.

4.2.7 Additional Issues Raised in the Consultation

One respondent expressed the view that the island could not sustain two or more mobile networks given the investment required, but believes that benefits could feasibly be achieved through the introduction of MVNOs.

The question as to how many mobile telephony operators should be licensed within the Bailiwick was posed in the initial mobile telephony licensing consultation paper (OUR Document No 01/25) issued in December 2001 and a Decision published in April 2002 (OUR Document No 02/14) taking into account the responses to that consultation. In the Director General's view there was sufficient interest to warrant the offering of two spectrum packages in the Bailiwick of Guernsey.

The Director General has set out the timetable for the liberalisation of the mobile telephony market within Guernsey which allows for network based competition in the market from 1 April 2003. Even with market penetration by GT of around 55% the Director General believes that a new entrant should be able to compete through price and innovative services from the date of opening of the market. The Director General has set out in OUR Document 02/14 her view that mandating access by MVNOs to mobile networks from 1 April 2003 could potentially jeopardise the development of network based competition within the Bailiwick. However the Director General has stated that should no effective network based competition develop in the market once the mobile telephony market becomes liberalised then it may be appropriate to reassess this decision.

Definition of Dominance in Guernsey

Two respondents sought clarification as to the Director General’s definition of a dominant operator.

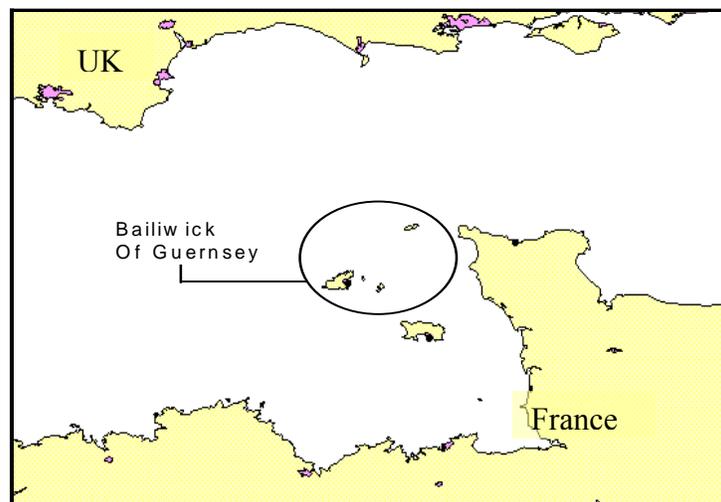
There is a considerable amount of international literature and experience in the matter of defining relevant markets in telecommunications and determining whether there is dominance or market power in those markets, but there is little precedent in Guernsey. The Director General proposes to develop further a body of analysis of markets that will assist in discharging this function in the future and will consider practice elsewhere as well as the specific conditions of the Bailiwick. Therefore in identifying the relevant market the Director General will have regard to the geographic area of the market and the product and services market and consider the position of the players in those markets using the methodology described in OUR Document 01/04 which is consistent with international best practice.

5. The Guernsey Economy and Telecommunications Market

This section provides a brief introduction to the States of Guernsey, a small, yet sophisticated high growth economy in Western Europe¹¹.

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. 30 miles north-west of France, the States of Guernsey cover an area of 49 square miles with 31 miles of coastline distributed over the islands of Guernsey, Alderney, Herm, Sark, and other smaller islands. The island of Guernsey itself is 60 miles south west of England and about 26 miles west



of Northern France. It is about 12 miles long, 9 miles wide and 30 miles in

¹¹ For further general information about the Bailiwick of Guernsey, please visit <http://www.gov.gg/>

circumference 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, 8 miles from France and the closest of the islands to England. Herm is an island just off St Peter Port in Guernsey, about 20 minutes by the regular ferry service. It is one-and-a-half miles long by half a mile wide. Sark lies nearly eight miles east of Guernsey. Access is by sea as there is no airport on the island..

Population

The Guernsey population amounts to 62,101¹², predominantly in the age group 15-64 years (about 2/3 of the population). The annual population growth rate is positive.

More than 95% of the population live on the island of Guernsey where the population density approaches 2,500 people per square mile.

The size labour force is approximately 32,000 with an unemployment rate of below 1%.

Government

The Bailiwick of Guernsey, comprising the inhabited 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. 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.

Economy

The GDP¹³ growth rate has traditionally been strong in Guernsey. In 2000, the GDP amounted to an estimated £1,245 million (£21,370 per capita) and the real GDP growth rate was as high as 7.3%¹⁴.

In the mid 20th century the main growth drivers were tourism and horticulture, but over the past 20 years the rapid financial sector development has generated an average annual

¹² 2001 Baliwick of Guernsey Census interim results available at http://www.gov.gg/census/pdfs/First_Release.pdf

¹³ Note, as Value Added Tax (VAT) is not levied in Guernsey, it is not included in the GDP.

¹⁴ Estimated by the Bailiwick of Guernsey Economics and Statistics Unit

real GDP growth rate in excess of 3.6%. In recent years, the sector has contributed to approximately 50% of the total GDP.

Today, Guernsey is a leading offshore finance centre providing a variety of finance sector services such as banking, insurance, asset management etc. As illustration of Guernsey's importance as offshore finance centre, more than twenty international banks have presence at the island.

Neither value added tax nor capital gains tax is levied in Guernsey. Since 1960, companies and individuals have paid a flat income tax at the rate of 20%. There is no separate corporation tax.

Currently, the inflation rate tends to run at one percentage point above that of the UK. This is primarily due to a combination of growth in local housing prices and the relatively higher costs of labour for the dominant financial sector compared to less knowledge-intensive industries in the UK mainland.

Telecommunications

The Guernsey telecommunications market is well-developed and the strong presence of the financial sector is a major driver underlying the growing demand for sophisticated communications services. Also, the relatively wealthy residential and business communities with a high number of business visitors demand high quality value added services along with a significant amount of inward visitors during the summer tourism season.

GT currently dominates all areas of the telecommunications market in the Bailiwick, which is now being opened up to competition. The global telecommunications group Cable & Wireless acquired 100% of GT in May 2002. GT's monopoly will be gradually revoked during the remainder of 2002 (fixed services and networks) and from 1 April 2003 with the opening of competition in mobile.

GSM services were introduced in 1996 (postpaid) and a prepaid service was launched in 2000. By April 2002, the GSM penetration reached 53%¹⁵, which is still below most Western European countries. The existing 2G subscribers have demonstrated readiness for data communications through a strong uptake of SMS services.

In summary, the 3G technology readiness is high in Guernsey. Combined with a healthy economy, high population density, a growing telecommunications market and independent regulation, Guernsey constitutes an attractive market opportunity for potential investors in a 3G licence.

¹⁵ Source: *Baskerville Mobile Communications*, issue 329, April 2002

6. Specific Questions for Potential Applicants

The Preliminary Tender Document attached to this Consultation Paper outlines the proposed tender process for licensing of two 3G mobile network operators, and possibly also another 2G network operator, within Guernsey. Specific issues on which the Director General is particularly interested in receiving comments are presented below although any other comments in response to the Preliminary Tender Document and the overall design of the competition are welcomed.

Expressions of Interest in 3G licences

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

Expressions of Interest in 2G licences

Those indicating an interest in acquiring a 3G licence are also requested to indicate whether they intend to apply for the single 2G (GSM) licence on offer.

2G spectrum options

The Preliminary Tender Document indicates that different options may exist for the assignment of spectrum to the new 2G (GSM) licensee. These options are specified as DCS1800 frequencies, E-GSM frequencies, and GSM combined with DCS1800 frequencies. Interested parties are asked to indicate whether they have a preference for one (or more) of the options expressing their order of priority.

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 market and the financing implications for rolling out a network across the Bailiwick.

Additional design elements

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 the incumbent operator and new entrants to Guernsey's mobile telecommunications market. The Director General 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.

Appendix 1 Preliminary Tender Document

Preliminary Tender Document for the Award of Mobile Telecommunications Licences in Guernsey

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 August 30, 2002. Acquisition of the final tender document is a prerequisite for participation in the competition. However, submission of an expression of interest based on this 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 from August 30, 2002.

1. General information on the competition

1.1 Introduction

The Director General of Utility Regulation (the "Director General") intends to award two third generation (3G) Mobile Telecommunications Licences in the Bailiwick of Guernsey, which will come into force from 1 April, 2003. It will also be possible for one of the applicants for a 3G licence, who is a new entrant to the Guernsey mobile market, to acquire a second generation (2G) licence. The Director General has decided to award these licences through a comparative selection process ("beauty contest").

The Director General has appointed Andersen Management International A/S (AMI) of Copenhagen to act as advisors to the OUR to assist with the preparation and execution of the competition for Mobile Telecommunications Licences.

1.1.1. Objectives of the competition

In order to meet the overall objectives of the Office of Utility Regulation to ensure the best in price, choice and quality services for Guernsey consumers consistent with a vibrant sustainable telecommunications sector, the competition is designed to meet the following principal objectives:

- the successful introduction of sustainable mobile telephony competition in Guernsey through licensing of two operators for the provision of 3G mobile telecommunications networks and services; and
- creating a level playing field between the incumbent and any new entrant network operators in the Guernsey mobile market to facilitate competition and thereby promote consumer choice.

Successful applicants will obtain from OUR 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 Licence¹⁶. Successful applicants will also require a WT licence from the Radiocommunications Agency (“RA”) in the UK for frequency spectrum.

In addition, a successful applicant for a 3G licence, who is a new entrant to the Guernsey market for mobile telecommunications, 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.

In the event that no new entrant is granted a 3G Mobile Telecommunications Licence as a result of this competition, the Director General of the OUR reserves the right to initiate a new competition for the grant of either 2G or 3G licences (combined or on a standalone basis) at a later stage in order to achieve the objective of establishing network based competition in the mobile market in Guernsey.

1.1.2. Structure of the Preliminary Tender Document

The tender document is structured as follows:

Section 1 provides general information on the competition;

Section 2 describes the application and licensing procedure;

Section 3 details the competition rules;

Section 4 contains a list of appendices, which will be available as attachments to the Final Tender Document.

1.2 Number and scope of licences available

The maximum number of 3G Mobile Telecommunications Licences to be granted as a result of this competition is two.

The maximum number of 2G Mobile Telecommunications Licences available to new entrants, who obtain a 3G Mobile Telecommunications Licence as a result of this competition and who request and are able to demonstrate a need for such a licence, is one. For the avoidance of doubt, whilst there are two 3G licences available, there is only one new 2G licence available.

All of the above licences will grant the holders rights to operate networks and provide services on a Bailiwick-wide basis.

A new entrant obtaining a 3G Mobile Telecommunications Licence may request national roaming on the incumbent’s existing 2G network in order to build up the new business and promote competition as early as possible. However, the mandated right to roaming on the incumbent’s 2G network will expire three years after the award of the 3G licence. Subsequent to this, the continued use of 2G national roaming will be subject to agreements resulting from commercial negotiations.

¹⁶ Pursuant to Section 2(1) of the Telecommunications (Bailiwick of Guernsey) Law, 2001.

1.3 Available frequency spectrum

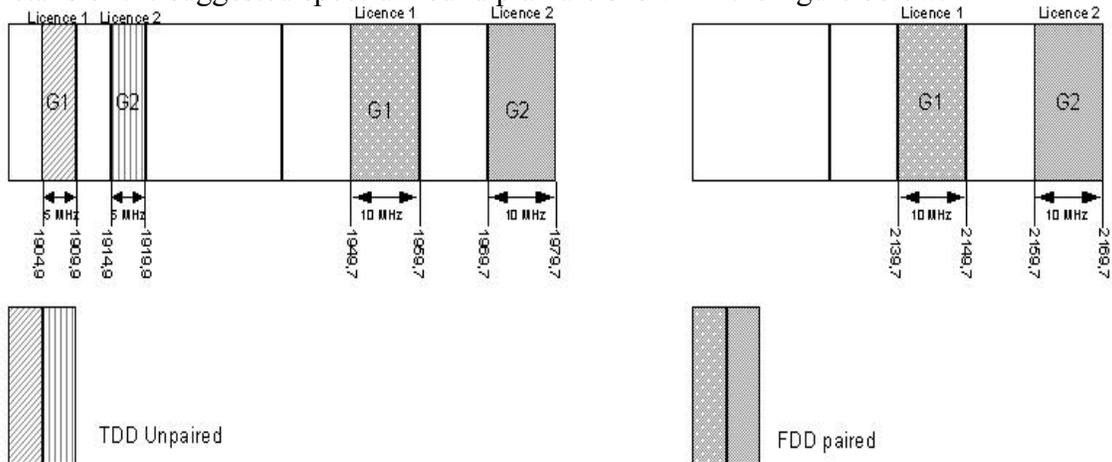
Whereas this competition is for the granting of Mobile Telecommunications Licences under the Telecommunications (Bailiwick of Guernsey) Law, 2001, successful applicants will also need to obtain wireless telegraphy (“WT”) licences from the UK’s RA in order to commence service as the Wireless Telegraphy Act, 1949 of the UK applies to the Channel Islands. As such, any person establishing or using any station for wireless telegraphy or installing or using any apparatus requires a WT licence from the RA unless specifically subject to an exemption regulation.

Hence, the operation and use of frequency spectrum in the Bailiwick for telecommunications purposes under a WT licence obtained from the RA is contingent upon holding a Mobile Telecommunications Licence from OUR. In practice, once the successful applicants have taken up the Mobile Telecommunications Licences granted by the OUR, WT licences will be needed from the RA. OUR will support successful applicants in finalising this stage in the overall process.

The RA has suggested the following 3G frequency spectrum is assigned to the future holders of 3G Mobile Telecommunications Licences in Guernsey:

Two 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:



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.

Furthermore, the RA has marked 2G frequency spectrum for assignment upon request to a 3G licence holder in Guernsey, who is a new entrant to the Guernsey mobile telecommunications market and who is able to demonstrate a need for 2G spectrum. The actual frequency allocations have not yet been finalised, but the following options are being investigated:

- One 2G frequency spectrum block of 2 x 20MHz in the GSM1800 spectrum band; or
- one 2G frequency spectrum block of 2 x 10 MHz in the E-GSM spectrum band.

A combination of frequency assignments from the GSM1800 and the E-GSM bands could also be a possibility, if so desired.

In addition OUR may consider, if appropriate, a combined assignment consisting of GSM1800 spectrum and GSM900 spectrum which would necessitate refarming of GSM900 frequencies currently assigned to the incumbent operator (Guernsey Telecoms Ltd).

1.4 Licence duration

The 3G Mobile Telecommunications Licences on offer will be for a period of 20 years from the licence commencement dates.

If a new market entrant is granted a 2G Mobile Telecommunications Licence, the licence will be for a period of 15 years from the licence commencement date.

In all instances the licensees will have the right under their licences to serve notice on the Director General requesting an extension to their licences.

1.5 Licence allocation method

The two 3G Mobile Telecommunications Licences 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 Guernsey's policy goals in the area of mobile telecommunications. Section 2.6 provides a detailed description of the evaluation and selection process.

1.6 Minimum requirements - 3G licences

Only those applicants who comply with the minimum requirements of the competition shall be considered for granting of the two 3G Mobile Telecommunications Licences available.

1.6.1. Coverage

The coverage offered by the applicant must be based on the IMT-2000 standards. Coverage is measured by the field strength of the pilot signal from the base station (Common Pilot Channel / downlink). In the covered area, the field strength must be at least 58 dB μ V/m with a probability of 95% in space and time, as measured outdoor at a height of 1.7 meters.

1.6.2. Data bearer rate

The data bearer rate available to services in the covered area must be at least 144 kbps UDD.

1.6.3. Network roll-out

The timetable for the roll-out of the 3G network must be based on a commercial launch of service within one year of the licence commencement. Presence on all the main islands within the Bailiwick (Guernsey, Alderney, Sark and Herm) within three years and coverage of 80% of the Bailiwick's population by residence within five years of the

licence commencement date are minimum network coverage criteria. In summary, assuming a licence commencement date of 1 April 2003, the key dates going forward are:

Commercial launch by	1 April 2004
Service offered on main islands by	1 April 2006
80% Coverage of Population by	1 April 2008.

1.6.4. 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 could be required. The Director General of OUR has the authority to resolve all disputes on this issue.

1.6.5. 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, all applicants must as a minimum build their own network in the three towns of St. Peter Port, St. Sampson's, and St. Martins.

1.6.6. Soundness and feasibility of the business plan

In order to satisfy the Director General of their financial and technical capability and their capacity to acquire a 3G Mobile Telecommunication Licence and to establish and operate a network in relation to that licence, applicants are required to demonstrate the soundness and feasibility of their 3G business plan (technically, financially, etc.).

1.7 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 seven criteria. The relative importance of each criterion is indicated by the attached weight.

Weights	Evaluation criteria – 3G licences
15%	Coverage
15%	Technical network quality
15%	Speed of roll-out
15%	MVNOs and service providers access
15%	Network sharing
10%	Promotion of competition
15%	Performance guarantees
100%	

1.8 Minimum requirements - 2G licences

Only those applicants who are offered a 3G licence and are new market entrants, and who comply with the following minimum requirements, shall be considered for the 2G Mobile Telecommunications Licence available.

1.8.1. Coverage

The coverage offered by the applicant must be based on the GSM or equivalent standards. Coverage is measured by the field strength of the signal from the base station. In the covered area, the field strength must be at least 46 dB μ V/m with a probability of 95% in space and time, as measured outdoor at a height of 1.5 meters.

1.8.2. Network roll-out

The timetable for the roll-out of the 2G network must be based on a commercial launch of service within one year of the licence commencement. Presence on all the main islands within the Bailiwick (Guernsey, Alderney, Sark and Herm) within two years and coverage of 95% of the Bailiwick's population by residence within three years of the licence commencement date are minimum network coverage criteria. In summary, assuming a licence commencement date of 1 April 2003, the key dates going forward are:

Commercial launch by 1 April 2004
Service offered on main islands by 1 April 2005
95% Coverage of Population by 1 April 2006.

1.9 Evaluation criteria - 2G licences

In the event that it is necessary to carry out a comparative evaluation for the award of the 2G licence, such an evaluation will assess eligible applications against the following five evaluation criteria. The relative importance of each criterion is indicated by the attached weight.

Weights	Evaluation criteria - 2G licences
20%	Coverage
20%	Technical network quality
20%	Speed of roll-out
20%	Offered traffic capacity (voice)
20%	Performance guarantees
100%	

1.10 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).

The OUR will require applicants to indicate in their applications which technology standard they will use, should they be successful in the competition for 3G Mobile Telecommunications Licences. Technologies belonging to the IMT-2000 family of technology standards endorsed by the ITU will be welcomed.

1.11 Fees and deposits

Applicants should note that there is a number of fees payable in relation to the licences offered. These fees relate to both once off and recurring charges.

The following fees apply:

1.11.1. Application fee/deposit

The total cost of running the competition for award of Mobile Telecommunications Licences is estimated to be £500,000. This represents a once off cost which will be recovered from the successful applicants.

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. However only successful applicants offered a licence shall be liable for the costs of the competition, so that in the event that an applicant is not offered a licence, the deposit will be refunded. Should an applicant decline a licence offer, the applicant will nevertheless be liable for the full application fee.

The successful applicants offered a 3G Mobile Telecommunications Licence will be liable to pay an application fee calculated as follows:

- Where only one 3G licence is offered, the application fee will be set at £500,000;
- Where two 3G licences are offered, the application fee will be reduced accordingly on a pro rata basis:

$$\text{Application fee} = \frac{\pounds 500,000}{2}$$

Following the final calculation of the application fee, the successful applicant or applicants will be required to pay the outstanding balance. For example should two 3G licences be awarded, then each successful applicant will be required to pay a further £150,000 in addition to the deposit of £100,000.

Applicants will not be entitled to recover any interest earned.

No specific fee for the award of 2G licences will be levied.

1.11.2. Spectrum assignment fee

OUR have been informed by the RA that applicants offered a WT licence from the RA will not be liable to pay a one off spectrum assignment fee.

1.11.3. Annual frequency fee

According to information provided by RA, holders of a WT licence will be liable to pay an annual licence fee to cover the costs of frequency management activities to the RA. The current annual frequency fee (2002-2003) for 3G spectrum is £320 per 2 x 200 kHz channels. Given an assignment of 2 x 10 MHz + 5 MHz this amounts to £20,000 per 3G-operator.

The annual frequency fee for 2G spectrum will depend on the finally chosen option for this spectrum allocation (the options are described in Section 1.3).

1.11.4. Annual licence fee to the OUR

In accordance with the Telecommunications (Bailiwick of Guernsey) Law 2001 section 6, holders of a Mobile Telecommunications Licence are liable to pay an annual licence fee to cover OUR's costs of regulatory activities in Guernsey.

Annual licence fees will be set on the basis of relevant turnover of the licensed business.

2. The application and licensing procedure

2.1 Requests for the final tender document and registration

Requests for the final tender document should be accompanied by a non-refundable, crossed bank cheque of £5,000 made payable to the Director General of the Office of Utility Regulation¹⁷.

All requests for the final tender documentation should be submitted by mail to:
Andersen Management International A/S
Kristianiagade 7
DK-2100 Copenhagen
DENMARK

In order to facilitate the communication between potential applicants and the OUR, a certificate of registration, which will be included in the final tender document, must be completed and forwarded by email to "3guernsey@ami.co.dk" within three working days upon receipt of the tender documentation. All correspondence between the OUR and the potential applicant will be through the person designated in accordance with the certificate of registration.

2.2 Questions relating to the tender document

Interested parties registering for the competition may submit written questions concerning the tender document via e-mail to "3guernsey@ami.co.dk". Only questions forwarded by e-mail will be accepted. Any questions from other parties who have not purchased the tender document will not be answered.

The final deadline for the submission of questions is 12 noon (Guernsey time) on 28 October, 2002. Questions received after this deadline will not be answered.

All questions received in due time will be replied to on an ongoing basis and as far as possible within 10 working days. All questions and answers will be made available on a website, to which only parties having purchased the tender document and completed the certificate of registration will have password protected access.

¹⁷ Office of Utility Regulation, Suites B1 & B2, Hirzel Court, St Peter Port, Guernsey GY1 2NH, CHANNEL ISLANDS.

The Director General will not disclose the identity of the party posing a question, except where she may be legally obliged to do so.

2.3 *Submission of applications*

Sealed applications for the Mobile Telecommunications Licences shall be submitted no later than 12 noon (Guernsey time), 29 November, 2002 to:

Andersen Management International A/S
Kristianiagade 7
DK-2100 København Ø
DENMARK

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

Applications shall be addressed as stated above and shall be clearly marked: “APPLICATION: MOBILE TELECOMMUNICATIONS LICENCES – GUERNSEY”. Applications shall also be clearly marked with the applicants' names and addresses.

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 diskettes or CD ROMs. In case of discrepancies, the paper version shall take precedence.

Applications should be accompanied by a crossed bank cheque of £100,000 made payable to the Director General of Utility Regulation¹⁸ to cover the application fee which was explained in section 1.11.1.

The opening of the applications that have been submitted within the specified time will take place at a closed meeting at AMI's offices in Copenhagen on the day of delivery. An OUR representative will be present at the meeting.

2.4 *Publication of names of applicants, but not of applications*

The Director General will announce such limited information about the applicants as she 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 the applicants will be published.

Information contained in the applications will be treated as confidential and will not be disclosed except by compulsion of law.

¹⁸ Office of Utility Regulation, Suites B1 & B2, Hirzel Court, St Peter Port, Guernsey GY1 2NH, CHANNEL ISLANDS.

2.5 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 the 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 not more than one week from the date of the written notice to the applicant of such non-compliance to rectify the application.

Only the applications and any material (including electronic formats) requested by the Director General will be taken into account during the evaluation process prior to the ranking of the applications.

2.6 Evaluation of the applications

All applications which are timely received will be subjected to a two-stage evaluation and selection process as follows:

Stage 1: Admittance test

All applications must pass an admittance test in order to distinguish those applicants which are eligible for the granting of the 3G Mobile Telecommunications Licences, i.e. by means of identifying applications which comply with the minimum requirements and the rules of the competition, as set out in section 1.6 and section 3. Only applications complying with the rules of the competition and which fulfil the minimum requirements at the time of submission, or within one week 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.

Stage two: Comparative evaluation

All eligible applicants will be evaluated against the criteria set out in section 1.7 regardless of the number of applicants. The Director General reserves the right not to award any or all of the licences available. If there are more eligible applications than 3G licences available, or if the eligible applicants express a preference for the same spectrum frequency band a comparative evaluation will be carried out.

The evaluation will be based on the eligible applicants' submissions in relation to a set of predefined evaluation criteria for the award of 3G Mobile Telecommunications Licences, as described in section 1.7.

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 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 fully clear to the readers of the applications. Unclear submissions will be interpreted prudently in the evaluation, and hence may earn the applicant fewer or no points. Through this process, the two highest ranked applicants for the 3G licences will be identified.

A somewhat simplified overview of the process for the granting of 3G licences is provided in Figure 1.

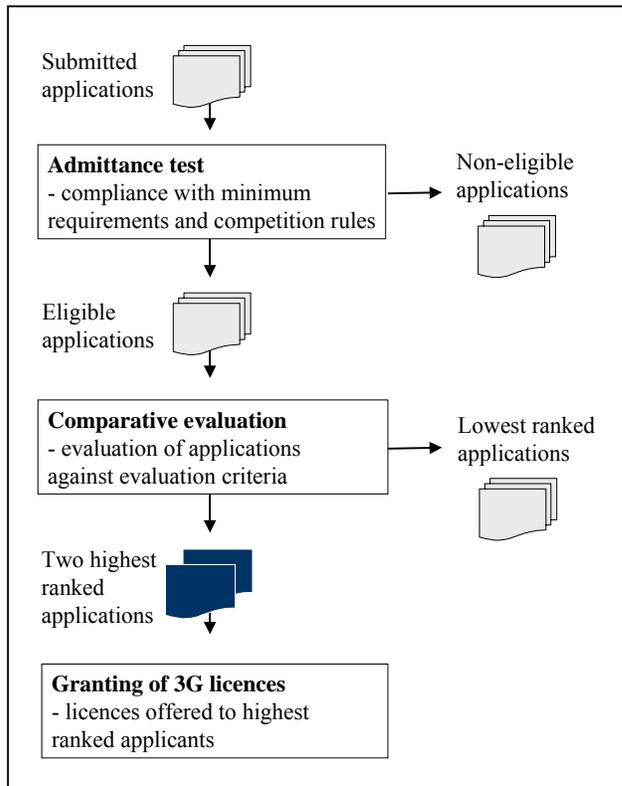


Figure 1 Overview of the comparative evaluation process for the award of 3G licences.

In the event that the two 3G licences are both offered to new entrants to the Guernsey mobile market and both of these applicants fulfil the following three requirements;

- Both request a 2G Mobile Telecommunications Licence;
- Both are able to demonstrate a feasible plan for deployment of a 2G-based network in their overall business plan for offering mobile services to the Guernsey market; and
- Both meet the minimum requirements set up for the 2G licence (see section 1.8),

then a second comparative evaluation will be triggered.

Such a second comparative evaluation will measure the two

new entrant applicants based on their submissions in relation to a set of predefined evaluation criteria for the award of the 2G Mobile Telecommunications Licence, as detailed in section 1.9, and finally identify the highest ranked applicant in this respect.

In the event that only one new entrant to the Guernsey market is offered a 3G Mobile Telecommunications Licence, this successful applicant will also be offered a 2G Mobile Telecommunications Licence, provided that the applicant fulfils the same three requirements as those listed above.

Comparative evaluation of the applications will comprise both quantitative and qualitative assessment. The applications will be subjected to a scoring system comprising marks according to a five-point scale, 0 being the lowest mark and 4 being the highest mark.

Moreover, 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, the evaluators may reduce the scoring accordingly.

Where licences are offered the Director General may incorporate conditions into the licence based on the commitments contained in the applications submitted. In any event, the Director reserves the right not to award any or all licences, (see the rules of the competition set out in section 3).

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 (no comparative reasons for success or rejections will be given). The overall evaluation report documenting the comparative assessment of the eligible applications will not be provided to applicants.

2.7 *Announcement of successful applicants*

The Director General intends to announce the highest ranked applicants no later than 1 March, 2003.

All applicants will be notified in writing of the results of the competition.

2.8 *Grant of licences*

It is the intention of the Director General to conclude the licensing process with the two successful applicants as quickly as possible after the announcement of the results of the evaluation process. However, as the incumbent operator's current exclusivity period for the provision of mobile telecommunications network and services in Guernsey does not expire until March 31, 2003, any new Mobile Telecommunications Licences will at the earliest commence from April 1, 2003.

Details of the new licensees and the relevant licences will be made publicly available from OUR's website upon the grant of the licences.

2.9 *Overview timetable*

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

Date	Event
30 August, 2002	Launch of competition – tender document is available for purchase
28 October, 2002	Deadline for submission of questions relating to the tender document
29 November, 2002	Deadline for submission of applications
1 March, 2003	Tentative date for announcement of the result of the tender
1 April, 2003	Earliest date for the grant of licences

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

2.10 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 2G and 3G licences shall submit information regarding both licence types in one single application.

2.10.1. Structure

The various elements of the application shall be inserted in separate parts referring to the headlines 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:	Commercial aspects
Part 5:	Technical aspects
Part 6:	Financial aspects
Part 7:	Performance guarantees
Part 8:	Other aspects (e.g. mandatory tables)
Part 9:	Supplementary information

The application shall follow the structure given above and the order shown above. Where relevant, the applicant shall complete all empty tables marked as mandatory and all empty text boxes marked for provision of binding commitments. This information will be subjected to the comparative evaluation and be reflected in the conditions of the Mobile Telecommunications Licence, in the event that the applicant is successful.

The minimum information to be included in each individual part of the application is described in more detail in section 2.10.2 below.

2.10.2. Content

[To be completed in the final tender document]

2.10.3. Size

Each application for a licence shall be as brief as possible and must not exceed 80 (or 100 standard pages, if the application is for a 2G licence also) standard pages (A4 format) of 2,000 keystrokes, including any annexes, but excluding mandatory tables and 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.

2.10.4. Language

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

3. Competition rules

The following rules will apply for the competition for the award of 2G and 3G Mobile Telecommunications Licences:

- a) An applicant may submit only one application for a 3G Mobile Telecommunications Licence in the competition, and one application for a 2G Mobile Telecommunications Licence. However, only new entrants to the Guernsey mobile market will be considered for the 2G Mobile Telecommunications Licence.
- b) Where an applicant expresses a preference for one of the two 3G spectrum packages, they should indicate the reasons for this preference and whether they would accept the other spectrum package.
- c) No applicant will be granted more than one 3G Mobile Telecommunications Licence. The Director General is concerned to ensure 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 invited to submit supporting documentation to establish their independence.
- d) The Director General has discretion to determine whether two or more persons submitting applications are associated applicants. 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 Mobile Telecommunications Licence was an associated applicant during the competition, the Director reserves the right to take such actions as considered appropriate by the Director, including the revocation of a licence in accordance with the process and procedures set out in the Telecommunications Law¹⁹.
- e) Changes in the applicant's ownership circumstances during the course of the competition (i.e. from submission of applications to 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) The Director General reserves the right to make use of a quality threshold in relation to the award any licences. Hence, if there are less applicants than licences available, she reserves the right not to award a Mobile Telecommunication Licence to an applicant scoring less than a minimum number of points in the evaluation, against the predefined evaluation criteria.
- g) The Director General reserves her right not to award any or all of the licences available.
- h) Applicants who do not meet the minimum requirements will be given one week to

¹⁹ Telecommunications (Bailiwick of Guernsey) Law, 2001.

rectify their application in this respect.

- i) By participating in this competition, an applicant accepts the rules of the competition.
- j) 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 Mobile Telecommunication Licence, or the Director General has otherwise terminated the competition.
- k) By participating in this competition, an applicant accepts that commitments submitted in its applications will be reflected as specific licence conditions, should it be granted a Mobile Telecommunications Licence as a result of this competition.
- l) 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 submission being non-binding 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 fully clear to the readers of the bids. Unclear submissions will be interpreted on a prudent basis in the evaluation, and hence may earn the applicant no points.
- m) 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, such as 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.
- n) In the event that one or both of the Mobile Telecommunications Licences available in this competition should not be awarded, these licences may be re-tendered by the Director General, by way of a new competition or some other allocation procedure.
- o) 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 Guernsey at the time of submission of the application.
- p) The application shall conform with all terms of the tender, including the requirements relating to the structure, form and content of the applications, refer to section 2.10 and the calculatory assumptions and definitions in Appendix [to be completed in final tender document].
- q) OUR will neither be liable 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 etc.

4. Appendices

[Definitions and calculatory assumptions - to be completed in final tender document]

[List of selected abbreviations - to be completed in final tender document]

[Certificate of registration - to be completed in final tender document]

[Pro forma set of licence conditions – to be submitted with the final tender document]