



Office of Utility Regulation

**Review of Cable & Wireless Guernsey's
Reference Offer for
Interconnection and Access**

Consultation Document

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1. Introduction

The telecommunications markets in Guernsey have been opened up gradually to competition from July 2002. Since then it has been open to operators other than the incumbent, Cable & Wireless Guernsey (“C&W”), to provide telecommunications services to customers in Guernsey. Since December 2002, any licensed operator has been free to build its own telecommunications network in the Bailiwick and provide services over that network. In April 2003, the final part of the market, the mobile market, was opened up to competition with the licensing of a second mobile operator in Guernsey.

An essential element in ensuring that any new operator wishing to provide either fixed or mobile services is able to compete and offer end-to-end services to customers, is its ability to interconnect its network with that of the incumbent and to obtain access to that existing network.

One of C&W’s legal obligations under the Telecommunications (Bailiwick of Guernsey) Law, 2001 (the “Telecoms Law”) is to produce a Reference Offer for Interconnection & Access (“RO”). The RO sets out the interconnection and access services that C&W makes available to new entrants and the terms and conditions (including prices) for those services. Individual operators can then choose the elements they require to build their services and negotiate a specific agreement with C&W. The existence of the RO gives new entrants and operators a starting point from which to negotiate. It also provides a transparent, easily accessible source of information for new entrants and potential new entrants on what services are available and on what terms and conditions – information that is essential to any business considering becoming a telecoms operator in Guernsey. Finally, as the RO is subject to regular regulatory scrutiny, it provides competitors with the assurance that there will be a level playing field and the regulatory regime will protect their rights as new entrants in a market where there is a dominant incumbent.

In the telecommunications market in the Bailiwick, where C&W is and is likely to be for the foreseeable future the dominant player, the RO is an essential tool for Other Licensed Operators (“OLOs”).

In July 2002, following a period of consultation and to facilitate the development of competition in the telecoms market, C&W published its RO setting out the terms and conditions upon which new entrants to the Guernsey telecoms market could get access to certain key services to enable them to offer competing end user services. Among other things the RO includes product descriptions, service level agreements (SLAs) and pricing details.

It is the case that RO documents are and remain dynamic, changing to reflect changes in the market, its needs and the development of new services. The Guernsey RO has been in existence for more than a year now and as OLOs have now had this time to familiarise themselves with its practical operation, the Director General (“DG”) believes it is prudent to review the document to ensure that the RO remains up-to-date and provides for the services that OLOs require to enable them to compete effectively against C&W. It is intended that further reviews will be undertaken at appropriate periods in the future to

ensure that the RO remains fit for purpose. This is dealt with in more detail later in this consultation paper.

2. Background

The regulatory regime for the telecommunications market in the Bailiwick has evolved over the past two years in accordance with;

- Legislation approved by the States in September 2001¹;
- States Directions to the DG in relation to universal service and the extent of competition in the telecommunications sector²; and
- States Direction on the identity of the first licensee to receive a licence with a Universal Service Obligation (“USO”) in the telecommunications sector.³

Together, the legislation and States Directions provide for the manner in which telecommunications market in Guernsey has been opened up to competition with all parts of the market being open to new entry since 1st April 2003.

As has been stated already the interconnection and access regime is a crucial element for OLOs and ensuring that it remains up-to-date and effective is paramount in providing the correct environment in which effective competition can develop. In the lead up to the liberalisation of the telecoms market, the OUR undertook a review of the needs of the market, including a consultation on the draft RO prepared by C&W⁴. C&W’s RO was confirmed in July 2002, subject to a dispute relating to the inclusion of leased lines, which is currently the subject of an appeal to the Utility Appeals Tribunal.

2.1. Legislative Provisions

Section 10 of the Telecoms Law sets out the DG’s powers with regard to interconnection and access and describes the requirements that the DG may impose in this regard on any licensee whom she determines has a dominant position in a relevant market. The DG has already determined, as set out in OUR Document 01/14⁵, that Guernsey Telecoms (now C&W) has a dominant position in the fixed network and services telecommunications market and in the mobile network and services market.

The requirements that the DG may therefore apply to C&W include the following;

¹ The Regulation (Bailiwick of Guernsey) Law, 2001 (Billet d’Etat No. 1, 2001), and the Telecommunications (Bailiwick of Guernsey) Law, (Billet d’Etat No. VI, 2001).

² Billet d’Etat No VI, 2001

³ The Billet for the States of Deliberation meeting in September included a policy letter from the Board of Industry with recommendations on this issue.

⁴ The RO was submitted by GT prior to the purchase by C&W. OUR documents 01/24, 02/10 and 02/20 are important in this regard.

⁵ Decisions under the Telecommunications (Bailiwick of Guernsey) Law, 2001; Decision Notice and Report on the Consultation

- (a) A requirement to make its procedures for the provision of interconnection and access publicly available on a non-discriminatory basis in a manner that is to the reasonable satisfaction of the DG;
- (b) A requirement to offer a standard interconnection and access agreement (referred to as the “Reference Offer”) which is available under non-discriminatory terms, conditions and charges, and on a non-discriminatory basis, no less favourable than that offered to -
 - (i) any of the C&W’s own services; or
 - (ii) any associated company of C&W’s or services of such a company;
- (c) A requirement to provide interconnection or access on terms, conditions and charges that are transparent and cost-oriented having regard to the need to promote efficiency and sustainable competition and maximise consumer benefits;
- (d) A requirement to provide interconnection or access at any technically feasible point in its telecommunications network; and
- (e) A requirement to provide interconnection or access in a manner that is sufficiently unbundled so that the person requesting interconnection or access does not pay for telecommunications network components or telecommunications services that he does not require.

In addition, the Telecoms Law makes provision for the DG to direct changes to the standard interconnection and access offering and to require C&W to justify its costs or charges for the provision of interconnection and access services.

The DG is publishing this consultation paper with a view to obtaining the views of interested and affected parties on the contents of the RO and to assess to what extent, if any, the current offering may need to be amended

This document does not constitute legal, technical or commercial advice; the DG 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 DG to regulate the market generally.

3. Structure of the Paper

This paper is structured as follows:

- Section 4 summarises the various documents and schedules that go to make up the Reference Offer, describing what is in each section. The full document is available on the C&W website.
- Section 5 considers management of the RO processes and the frequency of reviews of the RO whether there is a need for any changes in this area
- Section 6 addresses the scope of the services in the RO, addressing some particular issues that have been brought to the attention of the DG by players in the market and/or where the DG believes consideration of such matters would aid the development of competition.
- Section 7 considers the question of access to facilities in its various forms
- Section 8 looks at some measures that have been adopted in other jurisdictions with a view to facilitating further competition in the telecommunications market and invites comments to help frame further work in these areas.
- Section 9 sets out details on related matters and further workstreams associated with the RO.
- Section 10 concludes the paper.

The consultation period will run from Monday 18th August to Friday 26th September, 2003. Written comments should be submitted before 5.00pm on 26th September, 2003 to:

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

Email: info@regutil.gg

All comments should be clearly marked “Comments on Cable & Wireless Guernsey’s Reference Offer for Interconnection and Access”.

In line with the policy set out in Document OUR 01/01 – “Regulation in Guernsey; the OUR Approach and Consultation Procedures”, the DG intends to make responses to the consultation available for inspection. Any material that is confidential should be put in a separate Annex and clearly marked so that it can be kept confidential.

The DG regrets that she is not in a position to respond individually to the responses to this consultation, but she proposes to issue a response to the consultation in October 2003.

4. Reference Offer – Overview

C&W has published on its website the RO for Interconnection and Access. The RO comprises a number of separate documents which are described briefly below in order to provide a context for replies to this consultation. Interested parties are advised to consider the full text of the document which is available from the Cable & Wireless Guernsey website at http://www.cw.com/guernsey/service_providers/reference_offer.

4.1. RO Legal Framework

The RO Legal Framework document sets out the rules governing the overall operation of any Agreement that will ultimately be signed by an operator with C&W. It is of fundamental importance as it provides the framework arrangements for all access and interconnection services that an operator wishes to obtain from the incumbent and ensures that OLOs need only review and consider one legal framework and contract as opposed to several. Also this framework will have been the subject of appropriate regulatory scrutiny.

Key issues in this document include (but are not limited to);

- Provisions on commencement, duration, termination, review, amendment and suspension of the agreement;
- The procedures and timeframes for requesting any new services that are not already in the RO including testing and delivery;
- The procedures and timeframes for forecasting ordering and provisioning of services;
- The principles for charging, variations to charging and billing and payments;
- Provisions as to disputes and dispute resolution;
- General contractual terms relating to the provision of information, confidentiality, liability, severability etc.

The DG would welcome views from any parties who have entered into interconnection and access agreements, or are considering doing so, as to the appropriateness of these clauses, how they have operated in practice, and any adjustments or amendments that might be appropriate in the light of that experience. Reasons for any suggested changes should be provided to assist the DG in considering whether any changes should be mandated.

4.2. Definitions

This schedule sets out the definitions of the various terms used throughout the RO.

4.3. Billing and Payments

This schedule addresses the processes that underpin the billing arrangements between parties, including the type of information that the parties must exchange as well as the frequency of billing, the terms of payment and how any disputes will be handled.

4.4. Service Descriptions

Schedule 3 which includes the descriptions of the various services that C&W currently offers in its RO is of crucial importance to new entrants. Following the first consultation on the RO, the OUR directed GT as it then was, to adjust this schedule by expanding it considerably to include what the OUR considered to be a “starter kit” of essential interconnection and access services.

This list of services included conveyance services (origination, termination and transit) and interconnection infrastructure services (CSI, ISI) as well as data management amendments. For the avoidance of doubt, the DG also directed GT to include leased lines (on island, off island and partial on island leased lines) in the RO but C&W has appealed against this decision of the DG. This is addressed further in section 9.2 later in this paper.

The scope of the services included in the RO is one of the specific issues that the DG General is consulting on in this paper and further detail is set out in section 6.

4.5. Service Level Agreements (SLAs)

While the range of services available to new entrants is critical, the quality and level of service provision is also of importance. Quality of service is governed by Schedule 4 of the RO which addresses SLAs between the parties to the agreement.

The schedule covers forecasting, ordering, provisioning and crucially, fault handling as well as setting out penalties for failures to meet key service level targets such as availability and meeting provisioning times.

4.6. Interconnection and Access Prices

This schedule sets out the current levels of prices for the interconnection and access services included in the RO. These figures are not currently based on justified cost-based information as C&W has to date not submitted rates or fully justified cost-based rates. The DG has directed C&W, in accordance with section 27 of the Telecoms Law, to prepare separated accounts by specified deadlines to facilitate the setting of rates based on efficient costs. This is set out in document OUR 03/20 published in August 2003.

In the interim, the OUR is conducting a benchmarking exercise and examining such information as is available in order to carry out a review of the level of the interim rates that were published originally in July 2002. Comments and supporting information are welcome from interested parties to inform this process.

4.7. Schedule of Services Taken

Schedule 6 sets out the format for the inclusion in any final agreement of the services that the parties to the agreement agree to take from each other. Not all parties entering into agreements will require all of the services covered in the RO and only those that are taken up by a new entrant will be in this schedule in any final agreement.

4.8. Associated Documents

Associated with the RO are the Operations and Maintenance (O&M) Manual and the Technical Manual which govern the operational processes between the parties in relation to interconnection and access. These are not legally binding documents as they are more likely to be subject to ongoing minor adjustments based on the experience of all parties in the practical implementation of interconnection and access. Indeed it is notable that the current version of the O&M Manual is version 3 compared to the schedules to the RO which are version 1.6.

While the DG anticipates that these documents will be subject to ongoing change and evolution, any comments that interested parties wish to make will be considered as part of this review.

4.9. Conclusion

The DG would welcome views on any aspect of the Reference Offer, particularly in the light of actual experience of the operation of the offer. While some specific questions are asked elsewhere in this document, respondents are invited to include any comments not covered by those specific questions, in their response to this section.

Q.4.9.1 Please provide any comments you may have on the current structure of the RO and whether it continues to meet the needs of OLOs?

5. General RO Management

5.1. RO Review

This consultation paper comprises a review of the C&W RO that was initially published on 15 July 2002. The DG has initiated this review because, in an ever changing market this RO needs to be kept up to date to ensure that the products available meet market needs and that the charges are cost based. Clearly the RO can evolve and change as parties negotiate amendments, new services or adjustments to the existing terms and provisions. Any changes negotiated in this way must be approved by the DG. Changes negotiated in this way are likely to be in response to market needs and as such the DG welcomes this evolution.

However, the current RO does not contain any provision for structured regular reviews that are undertaken outside of the agreements signed between operators.

Options for a formal review process include:

- a regular annual or bi-annual review of the RO by the OUR in a form similar to this consultation, or
- reviews triggered by certain events.

Option A:

In common with other liberalising markets, the DG considers that the RO should be reviewed on a regular consistent basis in the first few years of operation. A possible review procedure might be an annual OUR-led review to be carried out on the anniversary of the opening of the services market (i.e. each July). It is envisaged that any review would be similar to that currently being undertaken and prior to the official publication of a consultation document, interested parties (including OLOs and the incumbent) would be free to submit views on matters that may be appropriate for inclusion in the review.

Option B:

An alternative approach would be that certain events trigger a review of the entire RO. For example, the inclusion of new services in the RO will require republication of the document. A review of the overall RO might be triggered after a set number of such republications have taken place. The DG considers that this might be an appropriate mechanism when the market is more mature.

Q.5.1.1 You are invited to set out your views on whether there should be any formal review processes for the RO and if so, what process you consider most appropriate and why?

Q.5.1.2 If you prefer either of the two options above, please explain your reasons and provide comments on the appropriate timeframe (annual/biannual reviews) and trigger events?

Q.5.1.3 If you prefer an alternative approach please explain why and indicate how you believe the approach would work in practice?

6. Reference Offer – Scope of Services

It is an integral feature of interconnection and access regimes that the RO is a dynamic document, reflecting the development of the market, the changing needs of OLOs and innovation and development of new services in the market. As such, it should be necessary to amend the document as new services are added to it, either by the incumbent or following demand for new services by OLOs. The DG encourages bi-lateral agreement on the expansion of the services covered in individual interconnect agreements - with such adjustments being reflected in the RO as a matter of course and the current C&W RO provides for such amendments.

However, in common with international experience, the DG believes it is important to carry out regular overarching reviews of the RO document to gain the benefits of any experience of the practical application of the RO in actual agreements, as well as to identify future market needs, prioritise those needs and put in place any amendments to the RO that are necessary to ensure the duty to promote competition and encourage innovation in the provision of utility services is met.

This consultation document identifies a range of services and products which fall into the following categories

- Services and products already in the RO where the DG has received information or representations that indicate there may be a need to review the terms of those services and products;
- Services and products that are not in the RO and the DG has received views that they should be, and
- Services and products that are not in the current version of the RO but may be required in the future to underpin and enable the provision of new and innovative services to further develop competition in the longer term.

6.1. List of Service Schedules

The RO currently contains eleven service schedules, each one describing a specific interconnection or access service that may be used by OLOs. The services included are as follows:

C&W Services

- GT On-Island Termination
- GT On-Island Origination
- GT On-Island Transit
- GT Off-Island Transit
- GT On-Island *FreePhone* Origination
- GT On-Island *LocalCall* Origination
- Emergency Services
- Directory Number Inclusion

Joint Services

- Data Management Amendments
- In Span Interconnect (ISI)
- Customer Sited Interconnect (CSI)

In the first instance, the DG invites OLOs to comment on whether there are other additional services that they consider should be added to this list at this time. Interested parties are invited to comment here on any services that are not addressed individually in the subsequent sections. For the avoidance of doubt, the DG has directed C&W to include leased lines in the RO, but the company has appealed this decision to the Utility Appeals Tribunal

Q.6.1.1 Please provide any comments you may have on the above list of services, whether you consider it to be comprehensive or that there should be additional services included. If the latter please explain which services you would wish to see included and why?

6.2. Use of Interconnection Links

The existing RO includes the provision of interconnection links (ISI and CSI) for the transport of traffic between C&W and an OLO. In the early stages of development of competition interconnection links that are in place between C&W and OLOs may have very little traffic over them. In these circumstances it is possible that an operator may wish to take steps to use its fixed interconnect links for carrying interconnect traffic related to its mobile business, thus maximising usage of the link by sharing the capacity.

The DG supports efficient use of network infrastructure, subject to any network management issues that may need to be taken account of. She is interested to consider the views of interested parties on this matter but is mindful of the practical issues such use might create, particularly with regard to interconnect billing. However she would welcome comments on the above scenario and also views on any other scenarios where sharing interconnection capacity might be desirable. Comments or detailed information on any possible barriers to this approach would also be welcomed.

Q.6.2.1 Is there merit in allowing interconnection links by an operator with both a fixed and mobile licence to carry interconnection traffic between C&W and that operator?

Q.6.2.2 Are there reasons why it would not be appropriate to allow such use? Respondents are requested to support their position with detailed information as to why this may not be in the best interest of the market.

6.3. Timeframes for Provision of Interconnection Links

The RO contains timeframes and procedures for completing interconnection agreements, and in particular forecasting, ordering and provisioning of interconnect links. The OUR considers this to be of fundamental importance as experience in other jurisdictions has demonstrated that a delay in the completing of physical interconnection between

networks has proven to be a very significant barrier to the speed at which competition can develop, and potentially a barrier to the viability of that competition.

Over a year ago, when the timeframes for these processes were set in the RO, there was no experience of setting such timeframes as the market had not yet been opened to competition. Therefore the DG looked to practice elsewhere, considered the practical situation of the incumbent and the characteristics of the local market, and set timescales in the context of the overall duties set out in the Regulation Law. In particular, the timeframes included in the RO were maximum timeframes and there is no barrier to the C&W completing the work to activate links earlier than the mandated timeframe. SLAs were included to offer protection and incentives for parties to meet their obligations under the RO.

The DG has received representations to the effect that currently, it would appear that the maximum timeframes specified are being utilised to the full. Concern has been expressed that this may not be necessary and that specifically the degree to which testing is being carried out by C&W may be excessive and unduly burdensome and that there is a lack of flexibility in relation to the deployment of resources to undertake this work.

In view of these concerns, and any other practical experience of the process, the DG is inviting views on whether there is scope to revise the timeframes currently set out in the RO for the physical linking of networks. Comments are welcome, including comments on what specific areas may be currently giving rise to concern and what proposals operators have for addressing these concerns (with particular reference to timeframes). However she is mindful to ensure that any timeframes set are realistic, take account of best practice elsewhere and are reflective of the effort needed to establish interconnect links.

Q.6.3.1 Is there a need to review the existing timeframes set out in the RO for the implementation of interconnection between networks and if so why?

Q.6.3.2 Respondents are invited to detail what specific areas need to be addressed and submit proposals for revised timeframes along with evidence to support the reasonableness of those timeframes, including, inter alia, any benchmark information that is considered relevant.

6.4. Data/IP Services

Notwithstanding the effect of the general economic downturn on telecoms services and the slowdown in the telecoms sector, the move towards data and IP based services has continued relentlessly such that the old distinctions between “voice” and “data” are now obsolete. This is particularly important in Guernsey given the stated policy of encouraging e-commerce and the move towards e-government. The DG welcomes the development of retail products and services to meet market demand and also to drive demand and usage of data/IP services, for example the retail Frame Relay service launched by C&W.

The DG is particularly interested in views on any underlying interconnection and access services that OLOs consider would be necessary to enable them either to compete with existing retail services provided by C&W or to provide new innovative data/IP services to end users. Of particular use in this context would be an understanding of the timeframes within which OLOs expect to bring any data/IP services to market so that the OUR can prioritise this issue.

Q.6.4.1 Is there demand – either current or potential – for specific interconnection or access data/IP services to underpin any proposed product or service provision in the retail market?

Q.6.4.2 If so what are the relevant timeframes for the introduction of new retail services and what are the characteristics of any interconnection or access service that OLOs might be interested in?

6.5. Flat Rate Internet Access Call Origination (FRIACO)

One of the most obvious retail data/IP services is access to the internet. The growth of the internet is having a major impact on the world's economy and society, and Guernsey is no different. The States of Guernsey has set out its vision for how it wishes to see the development of e-commerce in the Bailiwick. It states "Guernsey offers enormous scope and opportunity for many potential e-business clients to be connected up to our overall services. The Guernsey Government is continuing to work hard, with the highest priority, to ensure that there is a solid technical, legislative and social framework to support e-enterprises."

An important element in ensuring that this vision becomes a reality is making sure that customers can access the internet, and consequently access on-line business and Government services. There are a variety of ways in which customers access the internet, including dial-up access, ADSL, cable modems, satellite links, fixed wireless links and leased lines. Leased lines are generally used by larger customers with sufficient volume of traffic to justify the cost of the line rental. For residential and small business users, ADSL and pay-as-you-use dial up are the most common access mechanism in Guernsey. A popular variation of dial up access that has developed elsewhere is "flat rate dial-up" where a customer pays a fixed amount for a specified number of hours over a dial up link. This allows the customer to have a predictable cost base and has the potential to lead to increased usage of the net. Underpinning this retail service is the provision of a Flat Rate Internet Access Call Origination ("FRIACO") service, which is the conveyance service sold by the incumbent network operator to OLOs to enable the provision of flat rate to customers.

Notwithstanding customer interest in flat rate access in Guernsey, there are currently no licensees or ISPs providing, or seeking to provide, such a service to the knowledge of the OUR. The DG would welcome views from respondents on whether there would be an interest in a FRIACO product to enable the provision of retail flat rate dial up access.

Q.6.5.1 Is there demand – either current or potential – for FRIACO services to underpin any proposed service provision in the retail market?

Q.6.5.2 If so what are the relevant timeframes for the introduction of new retail services and what are the characteristics of any interconnection or access service that OLOs might be interested in?

7. Access to Facilities

Effective competition in newly liberalised telecommunications markets takes time to develop. The EU Commission's 8th Implementation Report provides ample evidence that the erosion of market share of incumbent operators is not something that will happen immediately after legal barriers to competition are removed. The reasons for this may be many – for instance with respect to facilities former monopolists with extensive networks have retained market power in a number of markets; the number of communications networks can be limited by the costs of construction involved; a shortage of spectrum in some cases means there can only be a limited number of network operators; and access to physical infrastructure to enable the roll out of competing networks can take time.

In line with the general duty to promote competition as set out in section 2 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the DG considers it appropriate to look at how any barriers to effective competition can be addressed in Guernsey. One way of reducing the time and cost of building competing networks is to promote access by new entrants to existing telecoms networks facilities. This also has the potential to complement the duty to lessen, where practicable, any adverse impact on the environment.

There is an existing requirement under the licence conditions of the incumbent to allow OLOs to access its facilities (Condition 21), where such access is essential to the OLO or where it is necessary to avoid material damage to the environment. In the event of a dispute the condition empowers the DG to set terms and conditions for access to facilities. In light of the fact that OLOs now have some experience in seeking to enter the Guernsey market, the DG wishes to consider this matter further and is interested to know; if new entrants consider that there are barriers that could be removed by ex-ante action in this area; if so what are those barriers (or anticipated barriers) and where might they arise; and what measures do respondents consider would be suitable to address them.

In order to provide a context for these questions, three distinct areas are addressed in this section:

- (a) access to ducts;
- (b) access to mast and towers; and
- (c) collocation facilities.

However, respondents are also invited to provide comments on related issues that are not covered by these three headings.

7.1. Access to Ducts

The laying of new physical fixed telecommunications infrastructure poses some specific challenges in Guernsey given the limited space available on the island. Difficulties include the potential economic impact of disruption caused by roadworks, the environmental impact of major digs and construction along with general disruption

caused by such construction, and potential delays due to planning permissions. The more general concerns as to duplication of infrastructure and cost of multiple digs also arise.

C&W as the incumbent operator has a Bailiwick wide network already in place and there may be significant advantages to be gained by new entrants sharing that existing infrastructure. Such benefits may include;

- (a) more rapid construction of alternative networks, thus speeding up the development of competition, with the knock-on benefit of faster roll-out of competing services to customers;
- (b) reduced construction costs to the industry as a whole;
- (c) a lessening of the environmental disturbance associated with network build; and
- (d) maximising the efficient use of existing infrastructure (with the accompanying benefit to the incumbent of an additional income stream).

In considering any positive action in this area, the DG is mindful that a number of important matters need to be considered including security and integrity of the incumbent's network; practical access issues; and liability for damage or injury. The practical issues surrounding access to ducting space require significant input from the players in the market to resolve, and the DG is conscious that interested parties must consider and balance the time and effort required to make duct sharing work against the potential benefits. This is something that the players in the market are best placed to understand and consider in the first place.

In conclusion, the DG is interested in understanding the level of demand for duct sharing and the views of interested parties as to how any such sharing might operate in practice.

Q.7.1.1 Is there a demand for access to the existing ducts of the incumbent operator to assist in the development of effective competition?

Q.7.1.2 If yes, what are respondents views on the issues of security, practical access and liability?

Q.7.1.3 What steps do respondents consider would be appropriate within the regulatory framework in relation to duct sharing and why?

7.2. Access to Mast & Towers

A number of the arguments made with respect to ducts can be applied equally to access to mast and towers. In general it is anticipated that access to these facilities will be required in relation to the roll-out of mobile services. However the DG is aware of the possibility that Fixed Wireless Access services may be deployed in the Bailiwick and also that wireless may be used for backbone links and any consideration of this issue is not intended to be technology specific.

However in addition to the points made in relation to ducts some further factors come into play as a result of the possibility of interference resulting from the close proximity of antennae on the same mast or tower. On the other hand, the visual impact that towers has

on the environment is much greater and there have also been some concerns with regard to the potential health impacts of the siting of masts. A further factor that is probably unique to the Bailiwick is the lack of potential sites that might be used for masts due to the small size of the island, the lack of elevated sites and the high density of housing in certain key locations.

The DG is aware that agreements on mast sharing have been concluded in other markets and does not believe there would be any fundamental difficulties in it being available in Guernsey. However, she is mindful of the practical issues associated with the implementation of mast sharing and as such wishes to consider the views of interested parties on this matter.

Q.7.2.1 Is there a demand for mast sharing? What are the factors that necessitated this?

Q.7.2.2 Do respondents envisage any practical difficulties in relation to mast sharing? It would be helpful in replying to this to reference specific issues that may impact upon mast sharing

7.3. Co-location and Co-mingling

Co-location is where one operator (the “access seeker”) rents space on another operator (the “access provider”)’s property for the purpose of interconnecting with that operator or accessing the network of that operator. The access seeker can supply, install and operates its own equipment on the premises (physical co-location). Alternatively, the equipment can be installed and operated by, and possibly sold or leased to, the access seeker (virtual co-location). Finally, the option of co-mingling has recently emerged in Europe whereby the access seeker only requires a relatively small surface area in the access or interconnection provider’s premises and this premises is not specifically segregated from the access providers facilities.

Co-location

Experience in other countries has shown that co-location may be a cost-effective and efficient means of implementing interconnection and access. Physical co-location involves the siting by an access seeker of its own equipment in the physical premises of the access provider. This can be done in separate rooms, in shared common rooms or in individual cages within a room. In each case the equipment is segregated somehow from the equipment of the access provider. The interconnection or access seeker would pay the costs of the co-location, including the cost of allocated space within the building in which the relevant equipment is housed. Issues of security, access for operational reasons and repairs etc are all of significance to both parties and require a comprehensive set of terms and conditions to be developed.

Virtual co-location is similar, except the equipment is owned and operated by the access provider on behalf of the access seeker. In this case, the access provider has greater control over issues such as physical access by staff, security etc. In this case, transparency and clarity of the processes, procedures, terms and conditions are fundamental to the access seeker, particularly in terms of fault repairs.

The DG is aware that C&W currently offers a co-location service for IP related services and a range of options depending upon customer requests/scale. With this service a customer co-locating their equipment in C&W's Internet Solutions Centre (ISC) saves the cost of a Private Circuit/Leased Line to a customer's own premises, so they only require an IP Feed. This configuration should have the added advantage of increasing the reliability of the Internet connection as there is no cable to the customer's premises and the likelihood of a fault is reduced (to connect to the Internet from either the Guernsey TRS or Alderney ISC Data Centre a customer will require a private circuit and an IP Feed).

Given this experience, it would seem that many of the physical and practical issues such as security and physical access to equipment may have already been addressed by C&W.

Co-mingling

In the context of the EU Commission review of the development of the regulatory review throughout member states⁶ the Commission found that there was demand for what it termed 'co-mingling'. This is where an access seeker only requires a relatively small surface area in the access provider's premises and that surface area is not segregated from the area being used by the access provider. Co-mingling is attractive where separate collocation space is proportionately much more expensive. The Commission noted that there appeared to be a drop in demand for collocation space which, together with growing awareness of possible discrimination, was leading to greater pressure for co-mingling. Co-mingling is currently available to new entrants in Belgium, Denmark, France, Spain and the United Kingdom.

The DG noted during the course of the development of the first RO that C&W is obliged to enter into negotiations with parties who seek to obtain access to these or other services in order to enter the Guernsey telecommunications market. Comments are now invited from interested parties on whether there is demand for co-location or co-mingling and what practical issues are of concern to parties. The DG recognises that there would be significant input required from the players in the market to develop and implement co-location or co-mingling and that active participation would be needed to address practical and operational issues.

- Q.7.3.1 Do respondents believe there is a need for alternatives to the traditional interconnection arrangement where switches are located in each parties own premises?*
- Q.7.3.2 What alternatives do respondents believe there is demand for?*
- Q.7.3.3 Given the resource implications of developing co-location or co-mingling services, the DG would welcome views on the prioritisation of the provision of these types of services and the possible timescales in which respondents would consider they might wish to avail of the services. The DG would be grateful for specific information from respondents that support their position.*

⁶ 8th Implementation Review

8. Further Measures to Promote Competition

8.1. Numbering Issues

A common feature of newly liberalised telecoms markets in other countries has been the availability of what might be termed 'competition enabling measures'. Included in this are

- Carrier Access/Carrier Selection (CA/CS) short codes for accessing alternative provider services,
- Carrier Preselection (CPS) and
- Number Portability.

Both CPS and Number Portability have been mandatory in the EU since January 2000. There is a large amount of public information available on each of these services including the practical and cost issues associated with their introduction. As the Bailiwick is covered by OFTEL's codes and conventions for numbering any developments in this area would need to take account of the appropriate rules currently in place and information relating to OFTEL's numbering conventions is available from its website at www.oftel.gov.uk.

The DG is interested to receive the industry's views on these measures. In particular, she would value opinions on the likely level of demand for each of the services mentioned above, how the costs of the implementation should be dealt with and the likely cost benefit of engaging in the work necessary to implement such measures.

The DG is aware that these matters are significant topics in their own right and believes each measure may warrant further detailed consideration before any further action is taken. However for now she wishes to seek the views of interested parties so that any further work in this area can be scheduled in line with demand where appropriate.

Q.8.1.1 Is it appropriate that some enabling measures along the lines described above are offered in the Guernsey market? Please support your position with reasons.

Q.8.1.2 Is there a demand for carrier access/selection in the market in Guernsey? If so within what timescale is that demand likely to materialise?

Q.8.1.3 Is there demand for Carrier Preselection in the Guernsey Market? If so within what timescale is that demand likely to materialise?

Q.8.1.4 What are your views on how the costs of implementation should be recovered?

Q.8.1.5 Would the availability of Wholesale Line Rental (WLR) impact upon the demand for CPS; if so how?

8.2. Wholesale Line Rental (WLR)

A measure that has been introduced in some telecoms markets in response to the requirements of new entrants seeking to compete effectively in those markets is Wholesale Line Rental (WLR) and the DG is interested in views on whether or not this service should be introduced in Guernsey.

While measures such as indirect access and carrier pre-selection (see section 8.1) may increase the level of competition in the market for calls, neither allow OLOs to provide the access line to the customer as well as calls. Therefore customers in these circumstances will continue to receive two bills – one from their provider of calls and one from the provider of their line – the incumbent. An incumbent's ability to provide a bundled calls-and-access service provides it with a competitive advantage in that it can offer its retail customers a single bill for calls and access. Market research in other markets has shown that the need to pay two bills represents a significant barrier to consumers switching to CPS. The incumbent also has the scope to develop a wider range of tariff structures than OLOs, thus enabling it to target particular customers.

The DG would welcome views of interested parties on the level of demand that exists for WLR and whether its availability at this time would help aid the development of competition and be in the long term interest of end-users. Parties responding to this issue may wish to consider at the same time the availability of CPS given the matters raised later in this consultation. Comments relating to the practical implementation of WLR would also be welcomed.

Q.8.2.1 Are Respondents interested in obtaining a WLR service in order to provide retail services to customers?

Q. 8.2.2 If so, please provide details of the timeframe in which you would be interested in providing retail services and any views you may have on what practical matters need to be considered (both of a technical nature and relating to consumer issues) in the context of introducing WLR?

8.3. Local Loop Unbundling (LLU)

Local Loop Unbundling (LLU) is the process where the incumbent operator makes its local network (the copper cables that run from customers premises to the telephone exchange) available to other companies on specified terms and conditions. Operators are then able to upgrade individual customers' lines using DSL technology to offer services such as always on high speed Internet access, direct to the customer.

LLU access can be provided in a variety of ways. The three options that have been most widely considered are

- physical space within the incumbent's site (this can be achieved by a number of means),
- line sharing, and

- bitstream access.

The DG does not propose to review these matters in detail in this paper and, as with CPS and Number Portability, it is a significant issue in its own right which may merit further separate consideration. There is also a vast amount of material publicly available on the detail of each of these forms of LLU and the issues associated with the cost and implementation of LLU, including the EU Commission communication in relation to LLU⁷ and the European Regulators Group paper on bitstream access⁸. These papers are provided as a reference only and do not necessarily represent the OUR views on this matter.

The one common thread in most available material is the hands-on nature of the role required from industry participants to ensure LLU works and becomes a reality. As with the numbering issues above, the DG is raising this matter now as it is one which would require significant investment in terms of time and resources of all parties concerned and is interested to hear the early views of respondents on the issue. In particular she would welcome feedback on whether there is demand for all forms of unbundling or whether industry needs may be met with a limited range of options, given the potential cost and complexity of the matters that would need to be addressed prior to LLU being available.

To enable this to be considered more fully, the DG would welcome initial comments from interested parties on LLU, the likely level of demand, the appropriateness of it as a measure for the market in the Bailiwick. The DG intends to use this information to further inform her thinking prior to a more detailed examination of this issue at a later point.

- Q.8.3.1 Should LLU be considered for the Guernsey market? Please provide reasons for your answers, including benefits and drawbacks.*
- Q.8.3.2 What are your views on how the practical implementation of LLU in Guernsey could be effected, considering the experience in other markets where LLU has been mandated?*
- Q.8.3.3 If there is demand, does that demand apply equally to the three form of unbundling referenced above? If so, please provide comments on what order they should be provided? If not please indicate, with reasons, which product offering might best suit market needs.*

⁷ COM(2000) 237 final; Communication from the Commission Unbundled Access to the local Loop; Enabling the competitive provision of a full range of electronic communication services including broadband multimedia and high speed internet, 26 April 2000. <http://europa.eu.int/ISPO/infosoc/telecompolicy/en/com2000-237en.pdf>

⁸ Bitstream Access ERG Consultation Document, July 14th 2003
http://www.erg.eu.int/doc/publications/call_input_bitstream_access/call_for_input.doc

9. RO Related Matters & further work

9.1. Interconnect Rates:

The DG is conscious that the rates charged for interconnection and access products and services are of fundamental importance to the market. In 2002 the OUR undertook an exercise to set interconnection and access rates that involved a mixture of benchmarking and considering the limited information available from the incumbent these rates were set as interim rates pending the submission by C&W of fully justified cost-oriented rates for consideration.

To-date, C&W has not submitted any justified cost-oriented rates. The DG does not consider it appropriate that interim rates should continue in the market for this considerable period. C&W has been required to submit justified cost-oriented rates by 14 November 2003. However, in the meantime, the DG is undertaking a review of those rates using such information as is available to her, including benchmarking C&W rates against those in the market elsewhere. This review commenced in July and the DG intends to communicate her findings to the market later in the autumn.

9.2. Appeal of DG's decision on Leased Circuits

Following the review of C&W's initial RO early last year the DG directed C&W to make certain amendments to its RO. Among those changes was a requirement to include leased lines in the RO. C&W objected to this requirement and has appealed the DG's decision to the Utility Appeals Tribunal. Following on from directions hearings on 18 June and 24 July 2003 a full hearing of the substantive appeal is scheduled for 20/21 October 2003.

As was stated earlier, in the context of that appeal, C&W applied to the Tribunal under Section 15 (6) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 for a suspension of the Direction of the 4th July 2002, and offered an undertaking to the Tribunal. The undertaking offered was agreed by the OUR and the notice parties as adequate to reasonably protect the legitimate interests of affected parties pending the consideration of the appeal. Having considered the application and the proposed undertaking the Tribunal on the 6th of August granted the suspension sought pending the outcome of the appeal. Having regard to the suspension granted by the Tribunal the OUR does not propose to take further action in relation to the proposed Direction pending the full outcome of the appeal.

The DG will review the position on her decision on the inclusion of wholesale leased circuits in the RO after the Appeals Tribunal has delivered its decision on the matter.

9.3. Future Work

The matters being consulted upon in this paper are those that have been raised directly with the DG by players in the market, or are, based on international experience, the measures that would appear to be of potential benefit in Guernsey given the current state of the market. The DG would welcome any comments that interested parties may have on issues – other than those covered by this paper – that they believe are important in the

context of the development of competition in the Bailiwick and would, in particular, welcome a prioritisation by respondents of the matters that they consider most urgent along with reasons to assist in planning the work of the OUR and the further development of the regulatory regime in Guernsey.

10. Conclusion

In conclusion, respondents are requested to comment on the C&W Reference Offer, outlining in detail the areas where amendments are considered necessary and the nature and potential benefits of such amendments.

Indications of planned developments in the market and how any specific interconnection or access service might underpin those developments would be particularly welcome, along with timescales for such developments. Prioritisation of the issues that respondents consider of most importance would also be of great assistance, along with any analysis of the steps and timescale needed for practical implementation of any prioritised measures.

The DG proposes to publish her report on the further development of the RO in October 2003. If it is appropriate at that stage, the DG will consider directing C&W to make such changes as she considers necessary, in light of market demands. In the meantime, the DG will undertake a further review of interconnection charges to ensure that any charges imposed by C&W are in compliance with its regulatory obligations.

ANNEX 1: List of Questions

- Q.4.9.1 Please provide any comments you may have on the current structure of the RO and whether it continues to meet the needs of OLOs?*
- Q.5.1.1 You are invited to set out your views on whether there should be any formal review processes for the RO and if so, what process you consider most appropriate and why?*
- Q.5.1.2 If you prefer either of the two options above, please explain your reasons and provide comments on the appropriate timeframe (annual/biannual reviews) and trigger events?*
- Q.5.1.3 If you prefer an alternative approach please explain why and indicate how you believe the approach would work in practice?*
- Q.6.1.1 Please provide any comments you may have on the above list of services, whether you consider it to be comprehensive or that there should be additional services included. If the latter please explain which services you would wish to see included and why?*
- Q.6.2.1 Is there merit in allowing interconnection links by an operator with both a fixed and mobile licence to carry interconnection traffic between C&W and that operator?*
- Q.6.2.2 Are there reasons why it would not be appropriate to allow such use? Respondents are requested to support their position with detailed information as to why this may not be in the best interest of the market.*
- Q.6.3.1 Is there a need to review the existing timeframes set out in the RO for the implementation of interconnection between networks and if so why?*
- Q.6.3.2 Respondents are invited to detail what specific areas need to be addressed and submit proposals for revised timeframes along with evidence to support the reasonableness of those timeframes, including, inter alia, any benchmark information that is considered relevant.*
- Q.6.4.1 Is there demand – either current or potential – for specific interconnection or access data/IP services to underpin any proposed product or service provision in the retail market?*
- Q.6.4.2 If so what are the relevant timeframes for the introduction of new retail services and what are the characteristics of any interconnection or access service that OLOs might be interested in?*
- Q.6.5.1 Is there demand – either current or potential – for FRIACO services to underpin any proposed service provision in the retail market?*

- Q.6.5.2 If so what are the relevant timeframes for the introduction of new retail services and what are the characteristics of any interconnection or access service that OLOs might be interested in?*
- Q.7.1.1 Is there a demand for access to the existing ducts of the incumbent operator to assist in the development of effective competition?*
- Q.7.1.2 If yes, what are respondents views on the issues of security, practical access and liability?*
- Q.7.1.3 What steps do respondents consider would be appropriate within the regulatory framework in relation to duct sharing and why?*
- Q.7.2.1 Is there a demand for mast sharing? What are the factors that necessitated this?*
- Q.7.2.2 Do respondents envisage any practical difficulties in relation to mast sharing? It would be helpful in replying to this to reference specific issues that may impact upon mast sharing*
- Q.7.3.1 Do respondents believe there is a need for alternatives to the traditional interconnection arrangement where switches are located in each parties own premises?*
- Q.7.3.2 What alternatives do respondents believe there is demand for?*
- Q.7.3.3 Given the resource implications of developing co-location or co-mingling services, the DG would welcome views on the prioritisation of the provision of these types of services and the possible timescales in which respondents would consider they might wish to avail of the services. The DG would be grateful for specific information from respondents that support their position.*
- Q.8.1.1 Is it appropriate that some enabling measures along the lines described above are offered in the Guernsey market? Please support your position with reasons.*
- Q.8.1.2 Is there a demand for carrier access/selection in the market in Guernsey? If so within what timescale is that demand likely to materialise?*
- Q.8.1.3 Is there demand for Carrier Preselection in the Guernsey Market? If so within what timescale is that demand likely to materialise?*
- Q.8.1.4 What are your views on how the costs of implementation should be recovered?*
- Q.8.1.5 Would the availability of wholesale line rental (WLR) impact upon the demand for CPS; if so how?*

- Q.8.2.1 Are Respondents interested in obtaining a WLR service in order to provide retail services to customers?*
- Q.8.2.2 If so, please provide details of the timeframe in which you would be interested in providing retail services and any views you may have on what practical matters need to be considered (both of a technical nature and relating to consumer issues) in the context of introducing WLR?*
- Q.8.3.1 Should LLU be considered for the Guernsey market? Please provide reasons for your answers, including benefits and drawbacks.*
- Q.8.3.2 What are your views on how the practical implementation of LLU in Guernsey could be effected, considering the experience in other markets where LLU has been mandated?*
- Q. 8.3.3 If there is demand, does that demand apply equally to the three form of unbundling referenced above? If so, please provide comments on what order they should be provided? If not please indicate, with reasons, which product offering might best suit market needs.*