



Office of Utility Regulation

Amendment to All Existing Mobile Licences

Statutory Notification

Notice of Modification of the Licences for 2G and 3G Mobile Telecommunications Networks and Services issued to Cable & Wireless Guernsey Ltd, Wave Telecom Ltd and Guernsey Airtel Ltd under Part 1, Section 8 of the Telecommunications (Bailiwick of Guernsey) Law, 2001

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Notice of Modification of the 2G and 3G Licences of Cable & Wireless Guernsey Ltd, Wave Telecom Ltd and Guernsey Airtel Ltd

1. Introduction

In accordance with Section 8 of The Telecommunications (Bailiwick of Guernsey) Law, 2001, the Director General of Utility Regulation hereby gives notice of a modification of the 2G and 3G Mobile Licences issued to C&WG Ltd, Wave Telecom Ltd and Guernsey Airtel Ltd. This modification will come into force on 1st September 2011.

Modification

The Director General is replacing all six existing mobile licences with three identical licences, one issued to each of the existing licensees. The text of the new licence is published at the same time as this Notice.

Reason for Modification

The Director General (DG) undertook a review of mobile licences and licensing in 2009. Following a consultation in May 2010 (OUR 10/05), which attracted a number of responses, and after further work, the OUR issued a Draft Decision in December 2010 (OUR 10/16). Taking account of comments received, the OUR published a Final Decision in April 2011 (OUR 11/07).

The Final Decision explains the changes the DG is making to the existing 2G and 3G licences. As there is now an established mobile telecommunications market, the DG can rely on competition to provide some of the benefits of regulation directly and he can reduce his interventions. The DG is therefore relaxing some of the conditions on mobile operators while, for instance, maintaining the option to regulate to protect a universal service. He is also preparing for the next stage in mobile telecommunication development by issuing licences that give operators more choice in the use of radio spectrum for the provision of 2G and 3G services.

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

2. Consideration of Responses

In accordance with section 8(2)(c) of The Telecommunications (Bailiwick of Guernsey) Law, 2001, the DG issued a Statutory Invitation to Comment in which interested parties were invited to submit written representations or objections to the DG's proposal by Friday 5 August.

The DG received comments from Cable & Wireless Guernsey and Wave Telecom (Wave), both holders of mobile licences in Guernsey. The DG is thanking them for their responses. The full text of their responses is published in accordance with the OUR's consultation procedure on the OUR's website.

Cable & Wireless Guernsey

Cable & Wireless Guernsey noted that Condition 10.2 refers to the Interception of Communications (Bailiwick of Guernsey) Law, 1997, which is outdated. It has been replaced, in 2003, by the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003.

Beyond this, Cable & Wireless Guernsey had no further comments.

The DG has amended Condition 10.2 of the Mobile Licence to refer to the current legislation.

Wave Telecom

Technology Neutrality

Wave Telecom (Wave) regretted the fact that the proposed mobile licence did not provide for technology neutrality and still restricted, to some extent, the use to which the licensed spectrum bands (900, 1800 and 2100 MHz frequencies) could be put. It thought:

- These spectrum bands should all be available for the provision of 2G and 3G services
- They should be available for the provision of next generation services such as LTE (Long Term Evolution)

The DG is committed to technology neutrality, as he set out in documents OUR 09/05 and OUR 09/06 ('Mobile Market Review' and 'Competition in the Mobile Telecommunications Market'). However, he is also mindful of the fact that the current allocation of spectrum, for historical reasons, is inconsistent across the

Channel Islands and could give dominant operators an unfair advantage. He has therefore stated, in his Final Decision document (OUR 11/07), that he would move to technology neutrality only when it “enables all operators to benefit”.

In collaboration with Ofcom and telecommunications operators in the Channel Islands, the DG is taking steps to rectify the spectrum allocation in the Channel Islands so that technology neutrality can be implemented. Until then, restrictions on spectrum frequency use must remain.

Access to Facilities

Wave objected to the expectation that it should use ‘best endeavours’ to allow other operators access to its infrastructure and that the facilities which it should endeavour to share could include electricity supply. Wave believes that the reference to ‘best endeavours’ is unreasonable and that access to electricity supply is not within its gift because it depends on another utility provider.

The DG notes that Condition 20, which mandates the sharing of facilities, provides for his involvement in deciding whether access can be provided on reasonable terms or whether it would be unreasonable to grant it. He also notes that Licence Condition 20 on access to facilities has existed in earlier licences in the same or similar form without creating undue difficulties. He therefore believes it should stay as it is.

3. Conclusion

Having duly considered the representations and objections he received in response to the Statutory Consultation, the Director General is now issuing a Statutory Notice of the modified Mobile Telecommunications Licences applicable to Cable & Wireless Guernsey Ltd, Wave Telecom Ltd and Guernsey Airtel Ltd. This Statutory Notice and the modified Mobile Telecommunications Licences it introduces come into force on 1 September 2011.

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