



Office of Utility Regulation

Price Regulation of Fixed Telecommunications Services

**Report on the Consultation Paper
and Decision Notice**

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1. Introduction

In November 2001, the Director General of the Office of Utility Regulation (“the Director General”) published a consultation paper, Document OUR 01/22 on the implementation of price control for fixed telecommunications services and networks in Guernsey.

This report sets out the Director General’s conclusions on the issues raised in the consultation paper following detailed consideration of the responses received. The report also contains in Annex II, a price control that will apply to Guernsey Telecoms Limited (“GT”), in accordance with Licence condition 31.2 of its Fixed Telecommunications Networks and Services Licence.

Sections 2 to 6 of the report are structured along the lines of the consultation document and each section summarises the matter consulted upon, the responses received and the Director General’s consideration of the matter. **Section 7** identifies some further areas of work that will be carried out separately from this price control exercise.

Three organisations responded to the consultation, as listed below:

- Guernsey Telecoms Limited;
- Newtel (Guernsey) Ltd; and
- States of Guernsey Water Board.

The Director General wishes to thank those who have responded to this consultation document for their contributions in helping to shape the regulatory regime. With the exception of the responses marked as confidential, written comments are available for inspection at the OUR’s office.

2. Why Is Explicit Price Regulation Needed?

In Document OUR 01/22 the Director General expressed the view that in an industry where the incumbent is currently a monopoly and is likely to maintain a dominant position for some time, explicit price regulation is often needed in order to protect consumers’ interests. The paper outlined some of the key consumer vulnerabilities that exist in a market with this structure and concluded that there is a need for explicit price regulation of the dominant incumbent’s activities in Guernsey.

Comments Received

The respondents agreed with the Director General that there is a need for explicit regulation. One respondent commented that there are historic reasons for GT’s current situation in relation to investment and operational efficiencies, while another commented that price regulation should not be continued beyond an initial period for fear of muting competition; that the price control should not be at the expense of quality of service; and that prices outside the price control would in any event be controlled by competition law.

The same respondent commented that regulation at the wholesale level would be more important than price control in ensuring that retail competition can effectively constrain the retail behaviour of the dominant incumbent.

Response and Director General's Position

The Director General notes the support for explicit price control in the Guernsey telecoms market. The other issues raised by respondents relate to the nature and type of the price control and in many cases these matters were raised in more detail elsewhere in the consultation paper.

The question of historic investment decisions is a matter to be considered in the detailed assessment of allowable costs under any price control mechanism. As stated in the consultation paper, it is the Director General's intention that price control will only apply in markets that are not effectively competitive, therefore the control will be removed as markets become more competitive. The question of the incumbent's service levels was addressed in section 3.2.2. of the consultation paper where the Director General explained that there are two safeguards against the reduction of quality of service to consumers; first, competitors are likely to differentiate on customer service levels, thus incentivising the incumbent to maintain and improve service levels in order to retain its customers; and second, the existing requirements in the licences for explicit service agreements with compensation clauses for failure to meet the required standard. In relation to competition law, the Director General notes that Guernsey does not currently have competition legislation in place and therefore the role of regulation in protecting consumers from potential abuses of market power is of paramount importance.

Finally, the Director General agrees with the need for regulation of the wholesale market to facilitate the development of competition and is developing the wholesale regulatory regime as a separate work stream. In this context, respondents may be interested in the report on the Guernsey Telecoms Reference Offer for Interconnection and Access (Document No. OUR 02/10) which is available on the OUR website www.regutil.gg.

Decision 1

The Director General will impose a price control mechanism on the dominant operator in the market for fixed telecommunications networks and services in Guernsey¹.

¹ The Director General has made a finding that Guernsey Telecoms Ltd is dominant in the market for fixed telecommunications networks and services in Guernsey (see decision 1.1. in Document OUR 01/14).

3. Regulation of Guernsey's Telecommunications Sector

The consultation paper went on to consider the form of regulation which would be most appropriate for Guernsey's fixed telecommunications services sector. It outlined a range of options including; case by case approval; rate of return regulation; profit sharing; and incentive regulation, discussing the benefits and drawbacks of each. The paper then considered the characteristics of the Guernsey telecommunications market and concluded that incentive regulation of the form " Δ RPI-X" and " Δ RPI+Y" is the most appropriate for the Guernsey market.

Comments Received

The respondents all agreed that incentive regulation was the most appropriate form of price control to apply in the Guernsey market.

Response and Director General's Position

The Director General is pleased with the support for incentive regulation and will proceed along the lines set out in the consultation paper.

Decision 2

The price control to be applied to Guernsey Telecoms Ltd shall be in the form of incentive regulation.

4. The Type and Level of Control

This section of the consultation paper discussed the potential types of price controls that could be applied under an incentive regulation regime, including the options of applying caps to; individual tariffs; the price of a basket or baskets of services; average revenue; or total revenue.

Having considered the various options, the Director General concluded that the controls on the regulated firm (in this case GT) should be based on the price of one or more baskets of services (and individual services within the basket(s) when deemed necessary) rather than on revenues or individual tariffs for the reasons set out in the consultation paper.

Comments Received

One respondent considered that this issue required further more detailed review and cautioned that it was necessary to ensure that the regulated firm cannot exploit a broad basket control, while at the same time the respondent recognised that basket controls have been widely used elsewhere. Another commented that the option of a basket or baskets was the preferred approach but that it should be a broad basket and any sub caps within the basket should be kept to a minimum so as to maximise the commercial freedom of the regulated firm.

Response and Director General's Position

The Director General welcomes the support for the use of a basket or baskets to set controls. She believes that this approach is appropriate for the current stage of development of the market. She has also carried out a more detailed review of the products to be included in the basket which is addressed in section 5.1 of this paper.

Decision 3

The price control to be applied to Guernsey Telecoms Ltd shall be applied to a basket or baskets of services.

5. The Scope of Control

This section of the consultation paper set out the general aims of incentive regulation and then went on to consider the detailed scope of the price control, including what services should be included in the basket, the role of price cap regulation in relation to tariff rebalancing, the universal service obligation and consumer welfare. It also considered the duration of the control and a range of compliance matters such as whether or not there should be permission to carry over excess achievements in early years. This report now addresses each of these issues separately.

First, the aims of price regulation were described as follows: to capture as much of the consumer benefits as possible on a sustainable basis without unnecessarily threatening the viability of the company; to encourage a suitable response from the incumbent to changing demands and technology in the way it provides and prices its services; to give the incumbent the incentive to make the greatest possible operating efficiency gains; to ensure the price control meets certain social objectives; and to encourage the development of effective competition in the supply of fixed telephone networks and services. Respondents were asked if they agreed or disagreed with these aims.

Comments Received

One respondent agreed with the aims but emphasised the need to ensure that regulation does not have an inhibiting effect on the development of competition. Another did not dispute the aims but believed that the wording was open to subjective interpretation. No respondents suggested any changes to the aims set out by the Director General.

Response and the Director General's Position

The Director General believes the overall aims of the price cap as set out above are appropriate and in response to the concerns raised by one respondent she notes that one of those aims is to encourage the development of effective competition in the supply of fixed telephone networks and services.

5.1. *What Services Should be in the Basket*

This section described the range of services that might be included in a basket or baskets of price controls in the Guernsey market and stated the Director General's belief that initially, the basket(s) of services should be relatively broad to provide

inter alia sufficient incentive for the dominant incumbent to pursue efficiency gains. A detailed example was provided of the types of services under consideration.

The provision of leased lines was considered specifically as a sub-set of the fixed telecommunications market. The Director General stated the view that the market for leased lines was particularly important as these circuits play a major role in the development of competition in telecoms markets. In addition, the provision of a wide choice of dedicated bandwidth at competitive prices is likely to be critical to the development of high-bandwidth activities in Guernsey, including e-commerce activities. Therefore, the Director General believed that a separate price cap for leased lines was needed. Information on further work in this area is set out in section 7.

The consultation paper did not address price control of mobile telecommunications services and the example proposed did not include calls to mobiles from fixed lines. The Director General believes that mobile telephony tariffs should be addressed separately and section 7 of this paper also contains detail on this issue.

Comments Received

One respondent who commented on this particular section agreed with the need to cap leased line services separately and noted a particular need for improving and ensuring high standards of quality for leased lines. Another respondent expressed the view that exchange line rental should be treated separately outside the basket of services, as the respondent believes there is a need for an increase in exchange line rental which, due to its magnitude would be “disproportionate” and would swamp the impact of other changes. There were no comments received on the detail of the proposed list of services that were set out for inclusion in the price control.

Response and the Director General’s Position

The Director General has considered further the list of services that were proposed for inclusion in the price control (see section 7.1 of Document OUR 01/22), has examined international practice in setting price controls for fixed markets, taken into account GT’s proposals for tariff changes in the coming years and, finally, has had regard to the quality and availability of information for monitoring compliance with the price cap.

In the light of these factors, the Director General has concluded that there is a need for one group of four baskets of services, each with a specific control. While these baskets might and indeed should change over time as the market changes and as the quality of available information changes, the Director General considers that this structure is the most appropriate for the current circumstances in the market. The following four baskets are proposed:

Basket 1: Leased lines

Private circuit connection takeover and rental will be included in a specific basket with its own cap. This will include analogue and digital circuits

Basket 2: ShortCall Basket

Shortcall line connection and takeover, shortcall line rental and shortcall local calls will be included in a specific basket with a separate cap.

Basket 3: Main basket

The main basket of services will include:

- Exchange line connection and takeover
- ISDN line rental, connection and takeover (for all ISDN services)
- Local dialled calls
- Jersey dialled calls
- National dialled calls
- International dialled calls
- Local dialled calls to ISPs
- National dialled calls to ISPs
- Operator calls
- DQ calls (including call charge and facility charge)
- Payphone calls

Basket 4: Exchange Line Rental

Exchange line rental will be included in a specific basket with a separate cap.

More detailed information on the approach adopted is set out in section 6.2 of this report.

Decision 4

The Director General shall implement one group of four baskets each with a specific control on the lines set out in this section 5.1 of this report.

5.2. Rebalancing and Price Controls

This section commented on the question of rebalancing of tariffs within price controls and noted that where an objectively justified reason can be presented for rebalancing, the Director General will consider the case on its merits. This is appropriate because in the first instance, the regulated company has the information to ascertain whether call charges have been subsidising connection and rental fees and it should assess the extent to which this is happening, assuming the access costs that an efficient operator would face and make submissions to the Director General if it considers any rebalancing is necessary.

GT has made a submission seeking to increase line rental charges in particular. Having considered GT's submission along with additional information obtained during the detailed work on the price control, the Director General believes there is reason for some increase in exchange line rental charges, which should be balanced by reductions in other charges. However for various reasons, including those expressed in section 5.3 below, the level of any increase will be constrained. The final levels of changes are set out in section 6.

5.3. Universal Service Obligations, Price Controls and Social Welfare

This section discussed the fact that the dominant incumbent is required by its licence conditions, the Laws and States Directions, to provide a universal level of service to all users in the Bailiwick of Guernsey at an affordable price. Affordability is most important to vulnerable users, particularly low income groups and the Director General noted that price cap controls can be used to constrain growth in the costs of particular services or bills to protect certain social groups. Examples of how this can be done include:

- capping line rentals separately and more tightly than other services in the basket so as to constrain any disproportionate increase in the unavoidable element of the bill for low income groups (low income users can limit their spending on the discretionary part of their bills – call charges – by limiting the number of calls they make, but cannot avoid the fixed charge for line rental);
- placing an additional cap on the rate of growth of a “lower quartile bill”, which ensures that the bills of users who already keep their spend low due to a shortage of disposable income, cannot rise by more than a set amount; or alternatively
- the introduction of special discounts or low-user tariffs by the incumbent as part of the universal service obligation.

The Director General explained her belief that some of the above stated provisions may be required to ensure the protection of vulnerable users in the short to medium term in Guernsey and asked respondents’ views on the best way of addressing this. She had also requested GT as the universal service provider, to consider how it might meet the needs of vulnerable users.

Comments Received

One respondent acknowledged the fact that vulnerable users may need protection and suggested that new low user tariffs be introduced to address this. Another rejected all of the measures suggested by the Director General claiming that current levels of charges are very low, especially line rental and therefore there is no justification for introducing low user tariffs or discounts in the short term. It also believes that low users are in many cases not low income users but rather low-use business lines and that low users should not receive special treatment. Finally, it suggested that low income telephone users should apply to the Guernsey Social Security Authority for assistance.

Response and the Director General’s Position

States Direction issued by the States of Guernsey to the Director General on relation to universal service requires the Director General to ensure that at least one operator provides a set of universal services to all users in the Bailiwick at an affordable price². The Director General is obliged by Law to comply with States Directions. In accordance with further States Direction, the Director General has issued GT Ltd with a licence which includes this universal service obligation and therefore GT must provide an affordable service to all users.

² Billet d’Etat No VI of 2001; p347

Notwithstanding the existence of a generally strong economy, in common with any other developed jurisdiction there are disadvantaged and vulnerable groups within the Guernsey community. In fact there are clear political concerns on this issue at present as is evidenced by the fact that the States of Guernsey has in fact commissioned a report on relative levels of poverty in Guernsey. Therefore the Director General believes that to comply with this legal obligation it is essential that one or all of the measures suggested by the Director General, or some alternative, be put in place.

Without any alternatives in place at present, it is incumbent on the Director General to take prudent steps to meet the requirements of the Laws and the States Direction in ensuring the affordability of the universal service to all users. As vulnerable users are likely to be most exposed to increases in the fixed element of their telephone bill, the Director General will constrain the increase that might occur in this element of the bill by putting an upper limit on any increases in exchange line rental.

Decision 5

In order to protect vulnerable users, exchange line rental shall be subject to a separate control such that the price of this service may not increase by more than the amount specified by the Director General during the price control period.

The Director General considers that there may be more suitable and targeted ways of protecting low income telephone users as part of the universal service obligation and will give consideration to alternative mechanisms that may be proposed.

5.4. Duration of Control

The Director General noted that price controls are generally imposed for between 2 and 5 years. Given the characteristics of the Guernsey telecoms market and the position of GT as well as imperfections in the information available from GT to support its price change proposals, the Director General stated her belief that initially any price control measures should be set for a period of three years, with the option to review after two years.

Comments Received

Two respondents agreed with the timing proposed with one suggesting that the option should be open to both the regulator and the regulated firm to review the price control.

Response and Director General's Position

One of the explicit advantages of incentive price control is to provide certainty in the market, both to customers and to competitors. Therefore it is essential when the price control is being set; that the regulated firm provides robust projections underpinned by detailed information on the tariff changes it proposes to make. The assessment of this information and the Director General's conclusions will then be based on a sound footing that is unlikely to change over the period of the control. This provides certainty for the regulated firm, for consumers and for competitors. An unfettered ability for the regulated firm to require a review of price control measures before the end of the price control period would be wholly inappropriate as it would negate the incentive on the firm to provide firm and robust information at the formation stage of the control and would remove the certainty for the market.

Therefore any review of the price control will be at the discretion of the Director General. Circumstances that might trigger a review include (but are not limited to):

- A fundamental change in the market such that the business of the regulated firm is severely affected;
- A significant error in the information provided to underpin the original assessment of the price control; or
- Evidence that the impact of price changes is adverse to vulnerable groups or to the aims of the price control as set out in section 5.

The Director General will consider relevant, supported and justified representations from affected parties in this regard.

Decision 6

The price control set shall apply for the period from 1st April 2002 to 31st December 2004. The Director General may review the price cap and adjust the cap if she considers it appropriate and necessary in accordance with her duties under the Laws.

5.5. Carry Over

In the event that the regulated firm exceeds the price reductions required in a particular year, the Director General could either; allow automatic carry over of the price reductions above the target so that the regulated firm could reduce prices by less in the following year or years; refuse to allow such carry over; or examine the case for carry over on its merits and make a decision at that time. The Director General proposed the latter approach.

Comments Received

One respondent voiced concern that if the regulated firm were to be able to automatically carry over achievements in one year against later years, it could have scope to target the majority or all of its price reductions in those services where competition becomes effective earliest, thus making competitive market entry more difficult. It believed that the Director General should review carry over applications on a case by case basis and take this into account. Another respondent believed that carry over should be automatic to provide certainty.

Response and Director General's Position

The Director General believes that it would be best, for the duration of the first price cap, to assess carry-over in the context of the ongoing monitoring of compliance as described in section 5.6 below. Therefore she will reserve the right to decide whether any over-achievement in one price cap period may be carried over into later periods on the merits of the case presented by the regulated firm. However, the Director General would be minded to permit carry over where early reductions benefit consumers.

Decision 7

The Director General will determine whether any over achievement in one price control period may be carried over into later periods on the merits of the case presented by the regulated firm.

5.6. Compliance

The Consultation paper described the various measures set out in the law to ensure compliance with regulatory measures such as the price control and described the factors that the Director General would take into account when considering any action that might be appropriate in the event of non compliance.

However, the Director General believes it is in the interests of GT and the market that compliance be ensured and therefore she has developed compliance guidelines for that include

- the submission of monthly compliance reviews;
- the submission of compliance statements with any price changes; and
- the collection of specified compliance data throughout the price control period for review by the Director General at the end of the period.

Detailed guidelines have been provided to GT and the Director General believes that these compliance measures will be of assistance both to her office and to GT in ensuring that the targets set by the price control are met, and will also allow any possible need for carry over to be identified and fully assessed in good time. The compliance guidelines are a living document that may be adapted by the Director General as necessary over time.

6. The level of Control

The Consultation paper described the various steps that would be followed in setting the price control level and noted that in circumstances where sufficient information has not been provided for the OUR to adequately carry out any of the steps, other available sources of information would be relied upon, such as estimates and benchmarking studies. The Director General also reserved the right to adjust the work programme as might prove necessary in the light of circumstances.

It has proven necessary both to adjust the work programme and to use benchmarking, estimates and reasonable assumptions along with the information provided by GT, to arrive at the final level of the price control. The information provided by GT is commercially sensitive and shall remain confidential. The final control has been set such that if GT operates efficiently, it can expect to cover its costs, including the costs of its capital employed, over the period of the control.

6.1. Steps taken to arrive at the level of the control

The steps that were followed by the OUR included:

- Reconciliation between GT data for 2000 and other years, including reconciliation of cost categories:
In order for the OUR to set a price control it is essential to have robust data for the base year from which price control can start. It was necessary therefore for the OUR to reconcile the submissions and information provided by GT with the last set of statutory accounts produced by the company for the year ending 31 December 2000. It was also necessary to reconcile revenue, volume, cost

categories and cost data and this required significantly more work than had been originally planned.

- Identification of the appropriate services/business to be regulated:
The OUR concentrated on those services that had been outlined in the consultation document, considered the limitations of the information available for monitoring and compliance purposes, and identified a set of services to be included in the price control that constitute the core fixed network and services business in which GT has a monopoly position and for which customers are constrained to purchase from GT.
- Assess asset base, capital cost, operating cost and cost of capital:
This step involved identifying the asset base, capital costs and operating costs associated with the price capped services only, separating out those elements of the business that would not be subject to price control. The OUR also calculated the cost of capital to be included based on internationally accepted methods with inputs tailored to GT Ltd and its environment.
- Market assumptions
GT provided a range of assumptions on market growth, impact of competition on GT's market share and interconnection rates which the OUR reviewed and considered in the light of benchmarks and best practice. A number of adjustments were made.
- Impact on vulnerable users
As described in section 5.3, the OUR took into account the potential impact of price changes on vulnerable users. Due to a lack of alternative information, it has been necessary for the OUR to use low users as a proxy for vulnerable users and to constrain any disproportionate increase in the bill of such users by placing an upper limit on any price change in the fixed rental element of a bill.
- Efficiency Gains
Finally, the OUR examined GT's submission on the efficiency it considers the firm has already achieved during 2001, examined the underlying costs of the firm as it applies to the price controlled services and changes in that underlying cost base in 2001, and took into account international trends in efficiency gains in former monopoly incumbents to arrive at a range of potential efficiency gains that would be achievable within the company over the period of the price control.

6.2. Level of the control

In carrying out the above steps, the OUR was conscious of the fact that this is the first price control of this nature that has been put in place in Guernsey and was also concerned at the quality of the underlying data that was provided for the setting of the control. Further uncertainty has been introduced by the fact that GT may be facing a change of ownership which could result in a change of strategy or behaviour that might impact on the final control structure or level. Therefore the OUR has adopted very conservative assumptions and has also been very conservative in the level of assumed efficiencies in the first years.

As a result the final price control on the main residential user baskets – exchange line rentals, other line rentals and connections and calls, will be required to be reduced on average in each year of the control period. It should be noted that the first period of the price control will be nine months so the full year’s reduction will not be required.

In other words, a person purchasing a mix of the services in the two baskets aimed at residential users should see their bill reduce by approximately 2% in real terms in a full year, if other factors such as usage patterns remain equal. Depending on the mix of services purchased by individual customers, and the levels of individual tariff changes implemented by GT, some users could see their bills reduce by more than this.

The various baskets have the following individual controls:

Basket 1: Leased lines: No change

- private circuit connection and takeover
- private circuit rental

There shall be no upward change in the price of this basket or in the price for any individual service within the basket

Basket 2: ShortCall Basket: RPI - 3%

- Shortcall line connection and takeover,
- Shortcall line rental
- Shortcall local calls

Changes in the price of this basket shall not exceed RPI – 3%.

Basket 3: Main basket: RPI-5%

- Exchange line connection and takeover
- ISDN line rental, connection and takeover
- Local dialled calls
- Jersey dialled calls
- National dialled calls
- International dialled calls
- Local dialled calls to ISPs
- National dialled calls to ISPs
- Operator calls
- DQ calls (including call charges and facility charge)
- Payphone calls

Changes in prices of this basket shall not exceed RPI - 5%.

Basket 4: Exchange Line Rental: RPI+7%

- Exchange line rental

Changes in the price of this basket shall not exceed RPI + 7%

Decision 8

The Director General will control the prices that Guernsey Telecoms Ltd may charge for the services described in this section along the lines described in this section 6.2 of this report.

6.3. Conclusion

The final level of the control has been set so that GT, if it operates in an efficient manner, will be able to recover its costs associated with the price controlled business from the revenue attributable to that business. The OUR considers that there is in fact scope for greater efficiency gains than have been factored into the current control, which affords GT the opportunity to achieve these greater efficiency gains and keep the resulting profits. The level of the control has also been set with a view to protecting vulnerable users and allowing a degree of rebalancing of tariffs.

7. Pricing for Other services

7.1. Leased Line Services

As part of the detailed examination of the fixed telecommunications market for the purposes of this price control, the OUR has noted that the quality of information available from GT on its leased line services requires significant improvement to identify the appropriate level of cost oriented prices for these services. Therefore the Director General has imposed a price freeze on leased line prices which are included in a separate basket. The OUR will require GT to carry out an audit of all the leased line services it provides in order to identify and provide the information the Director General requires to consider further pricing regimes for these circuits. The timetable for this project and further detail will be published on the OUR work programme.

7.2. Mobile Services

In the initial consultation paper the OUR did not propose to impose a price control on mobile services at this time. In carrying out the more detailed work over the past months, the Director General has considered the current situation in Guernsey with regard to mobile services, practice in other jurisdictions, and the constraints on setting price caps that are imposed by the currently available information.

Mobile telecommunications has been treated as a separate market for regulatory purposes in other jurisdictions for a range of reasons, including the fact that it has been seen as a newer service. This means that investment in such networks is more recent, technology is newer and they should not be subject to the same historic inefficiencies as incumbent fixed telecommunications networks. Furthermore, the nature of technology means that it is easier to build alternative mobile telecommunications networks than to build alternative fixed networks, meaning that the barriers to competitive entry into these markets may be lower than for fixed, leading to the argument that these markets should be left to competitive forces. Finally, mobile operators have argued that the more recent nature of mobile businesses requires that operators have greater freedom to recover the heavy up front investment that is required to build such networks. However, as mobile businesses become more established concerns have been expressed, particularly in Europe, over the cost and quality of services to end users, and some regulators have started to intervene in these markets (UK capping mobile termination rates for example).

Against this backdrop, the OUR proposes not to intervene in the retail mobile market in Guernsey at this time, pending further consideration of this complex issue. The Director General will not therefore place any constraint on mobile charges at this

time. For the avoidance of doubt this does not constitute acceptance of any of the price changes indicated by GT in its submission to the OUR on 23rd November 2001. Furthermore, this decision assumes that the behaviour of the monopoly operator in the Guernsey market – Guernsey Telecoms Ltd – will not be to the detriment of consumers in the interim. If the Director General identifies behaviour in the market that has the potential to disadvantage users, or appears to contravene the principles of the relevant legislation, she will intervene in the market to control such behaviour. If any investigation is required, any price changes that are under scrutiny may be reversed pending the conclusion of such investigation.

8. Conclusion

This report sets out the Director General’s response to the consultation on price control for the fixed telecommunications market in Guernsey. The Director General has taken the initial approach of applying price control to the traditional core set of services that are part of the fixed telecommunications business of the incumbent operator and for the present has not applied controls to the newer aspects of the business (broadband and mobile). Nor have controls been applied to aspects of the business that are currently open to competition such as the CPE market. However, the Director General reserves the right to apply price controls where she finds that this would be appropriate and in accordance with her functions and duties in the market.

The final control requires GT to reduce prices for a basket of services by 5% per annum for the period of the price control, permits increase of up to 7% per annum in exchange line rentals, and requires that prices for a “Shortcall” basket are reduced by 3%, while prices for the leased line basket are frozen at their current levels.

/END

ANNEX I – Summary of Decisions

Decision 1

The Director General will impose a price control mechanism on the dominant operator in the market for fixed telecommunications networks and services in Guernsey: Guernsey Telecoms Ltd.

Decision 2

The price control to be applied to Guernsey Telecoms Ltd shall be in the form of incentive regulation.

Decision 3

The price control to be applied to Guernsey Telecoms Ltd shall be applied to a basket of services.

Decision 4

The Director General shall implement one group of four baskets each with a specific control on the lines set out in this section 5.1 of this report.

Decision 5

In order to protect vulnerable users, exchange line rental shall be subject to a separate control such that the price of this service may not increase by more than the amount specified by the Director General during the price control period.

Decision 6

The price control set shall apply for the period from 1st April 2002 to 31st December 2004. The Director General may review the price cap and adjust the cap if she considers it appropriate and necessary in accordance with her duties under the Laws.

Decision 7

The Director General will determine whether any over achievement in one price control period may be carried over into later periods on the merits of the case presented by the regulated firm.

Decision 8

The Director General will control the prices that Guernsey Telecoms Ltd may charge for the services described in this section along the lines described in this section 6.2 of this report.

ANNEX II

Determination of the Maximum Levels of Charges which may be applied by Guernsey Telecoms Limited in respect of Licensed Telecommunications Services

1. The Director General of Utility Regulation in accordance with:
 - condition 31.2 of the Fixed Telecommunications Licence issued to Guernsey Telecoms Limited on 1st October 2001; and
 - her duties, powers and functions, under the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 and in particular sections 2(a), 5(a), 5(e) and 5(g) thereof; and
 - her duties, powers and functions, under the Telecommunications (Bailiwick of Guernsey) Law, 2001 and in particular section 5(1)(f) thereof; and
 - her finding that Guernsey Telecoms has a dominant position in the market for fixed telecommunications services and networks in the Bailiwick of Guernsey³ in accordance with section 5(3) of the Telecommunications (Bailiwick of Guernsey) Law 2001

hereby determines that the maximum levels of charges that Guernsey Telecoms Limited may apply to the provision of the Licensed Telecommunications Services, as defined in the Licence of Guernsey Telecoms Limited of the 1st of October 2001 are those specified in paragraphs 4, 5, 6 and 7 below.

2. The maximum levels of charges which may be applied by Guernsey Telecoms Limited, as set out in this Determination shall come into effect on 1st April 2002 and shall apply until 31st December 2004 subject to the provisions of paragraph 3 hereof.
3. This Determination is subject to review, either in whole or in part, by the Director General, where the Director General considers this necessary and/or appropriate having regard to her duties and functions under Law, including the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, and the Telecommunications (Bailiwick of Guernsey) Law, 2001. and any such review will be carried out in accordance with the provisions of sections 5(2) and 5(3) of the Telecommunications (Bailiwick of Guernsey) Law, 2001.

³ Document OUR 01/14: Decisions Under the Telecommunications (Bailiwick of Guernsey) Law, 2001, Decision Notice and Report on the Consultation; Decisions no. 1.1 and 3.1

4. **Maximum Levels of Charges which may be applied by Guernsey Telecoms Limited in respect of a Basket of Leased Lines**

The following services shall be included in the basket of leased lines:

- All analogue private circuit connections
- All digital private circuit connections
- All analogue private circuit rental
- All digital private circuit rental

Guernsey Telecoms Limited shall ensure that for the period of this Determination the charges which it applies to this basket of services shall not exceed the charges for this basket of services in place on 1st April 2002.

In addition Guernsey Telecoms Limited shall ensure that for the period of this Determination the charges which it applies to each individual service within this basket shall not exceed the charges it applies for each of these individual services in place on 1st April 2002.

5. **Maximum Levels of Charges which may be applied by Guernsey Telecoms Limited in respect of a Shortcall Basket**

The following services shall be included in this basket:

- Shortcall line connection
- Shortcall line rental
- Shortcalls

Guernsey Telecoms Limited shall ensure that the charges which it applies to this basket of services are subject to a reduction in each relevant period which reduction shall, be at least equal to the annual percentage change in the Retail Price Index less 3% ($\Delta RPI-3$).

6. **Maximum Levels of Charges which may be applied by Guernsey Telecoms Limited in respect of an Exchange Line Rental basket**

The following services shall be included in this basket:

- Exchange Line rental

Guernsey Telecoms Limited shall ensure that the charges which it applies to this basket of services shall not increase in each relevant period more than the annual percentage change in the Retail Price Index plus 7% ($\Delta RPI+7$)

In addition Guernsey Telecoms Limited shall ensure that the maximum charge for the services in this basket at any time during the relevant period shall be no greater than the charge at the end of the previous period plus the annual percentage change in the Retail Price Index plus 7% ($\Delta RPI+7$).

7. Maximum Levels of Charges which may be applied by Guernsey Telecoms Limited in respect of a Main basket

The following services shall be included in this basket:

- Exchange Line connection
- All ISDN2 Service Connections
- All ISDN30 service connections
- All ISDN8 service connections
- All ISDN22 service connections
- All Additional ISDN service connections
- All ISDN2 Service rental
- All ISDN30 service rental
- All ISDN8 service rental
- All ISDN22 service rental
- All additional ISDN channel service rental
- Local calls
- Jersey calls
- National Calls
- International Calls
- Local calls to ISPs
- National calls to ISPs
- Calls from public payphones
- Calls to the Operator
- Calls to Directory Enquiries (including call charges and facility charge)

Guernsey Telecoms Limited shall ensure that the charges that it applies for this basket of services are subject to a reduction in each relevant period which reduction shall be at least equal to the annual percentage change in the Retail Price Index less 5% ($\Delta RPI-5$).

8. This Determination shall come into effect on 1st April 2002 and shall continue in force until 31st December 2004 unless changed, amended, replaced or revoked, by the Director General. For the duration of this Determination, the relevant periods in which the maximum levels of charges shall apply and be monitored shall be:

Relevant Period 1: 1st April 2002 to 31st December 2002

Relevant Period 2: 1st January 2003 to 31st December 2003

Relevant Period 3: 1st January 2004 to 31st December 2004

And the term “relevant period” shall be construed accordingly.

For the relevant period from 1st April 2002 to 31st December 2002, the maximum levels of charges specified in paragraphs 4, 5, 6 and 7 in terms of annual reductions or increases shall be adjusted by the Director General to take account of the fact that the Relevant Period 1 is less than a one year period.

9. To the extent that Guernsey Telecoms Limited has made, during any relevant period, a reduction in charges that is greater than the reduction required by this Determination or an increase in charges that is less than any increase permitted by this Determination, the under-recovery may be taken into account by the Director General in monitoring compliance with the maximum levels of charges which may be applied in the relevant periods subsequent to the relevant period in which the under recovery occurred.