



Office of Utility Regulation

# **Telecommunications in Guernsey**

Licensing Framework for a Competitive Market

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Consultation Paper

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**Office of Utility Regulation**  
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# Telecommunications in Guernsey

## Licensing Framework for a Competitive Market

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# 1. Introduction

In today's global economy the role of modern communications has become part of the way we live our lives. As electronic communications underpin more and more of what we do in business and private life, the need for world class telecommunications networks and services has never been greater.

The States of Guernsey has debated the need for leading edge telecommunications networks and services to support the Bailiwick's e-commerce strategy and its economy generally and is putting in place a framework designed to:

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

To this end the States has approved a new legislative package for telecommunications and has issued a number of States Directions on key policy issues. The new Office of Utility Regulation is also being established and a Director General is being appointed. All of these measures are due to be commenced on 1<sup>st</sup> October 2001.

Under the new legislation, the Director General is charged with a wide range of functions and duties. In carrying out those functions, the Director General wishes to consult with interested parties wherever timescales allow. This paper is one of a number of consultation documents that will be issued to assist the Director General in formulating the regulatory framework.

This paper sets out the background to the States' decision to develop a competitive telecommunications market in Guernsey. It goes on to describe those activities that fall within the telecommunications regulatory regime and, by exception, those that do not and finally, it proposes a licence structure for the market and seeks comments.

The following consultation papers address related issues and may be of interest to respondents to this paper:

- Document OUR01/03: Telecommunications Licence Conditions – Consultation Paper
- Document OUR01/04: Proposed Decisions in accordance with the Telecommunications (Bailiwick of Guernsey) Law, 2001

Where issues are raised that will be the subject of further consultation, this is noted.

*This consultative document does not constitute legal, commercial or technical advice. The Director General is not bound by it. The consultation is without prejudice to the legal position of the Director General or her rights and duties to regulate the market generally.*

## 2. Structure and Comments

### 2.1. *Structure of this Paper*

The rest of this paper is structured as follows:

**Section 3:** Gives an overview of the background to the issues addressed in this paper.

**Section 4:** Describes the scope of the regulatory framework and sets out those elements of the telecommunications market that the Director General considers do not need to be licensed or regulated.

**Section 5:** Sets out the proposed licensing framework and categories of licences.

**Section 6:** Discusses the timetable for further steps.

**Section 7:** Concludes the paper.

### 2.2. *Submission of Comments*

Interested parties are invited to submit comments in writing on the matters set out in this paper to the following address:

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

Email: [info@regutil.gg](mailto:info@regutil.gg)

All comments should be clearly marked “Comments on the Licensing Framework for a Competitive Telecommunications Market” and should arrive before 5pm on Friday 24<sup>th</sup> August.

All comments are welcome, but it would make the task of analysing responses easier if comments reference the relevant question numbers from this document. In line with the policy set out in Document OUR01/01 – “Regulation in Guernsey; the OUR Approach and Consultation Procedures”, the Director General 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 Director General 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, including published licence terms and conditions in September.

### **3. Background**

#### **3.1. Legislative Framework**

The new legislation sets out the principles that are to be followed in the regulation of the sectors in Guernsey and assigns functions and duties to both the States of Guernsey and the Director General. In exercising those functions both the States and the Director General are required to balance, amongst other things:

- the interests of consumers and users in the Bailiwick in relation to cost, quality and availability of services;
- the need to satisfy demand for relevant services;
- the economic and social development and well-being of the Bailiwick;
- the introduction and promotion of effective sustainable competition;
- the introduction of innovation and new services and the improvement of services; and
- the environment and any effects on the environment.

This is designed to ensure that the best interests of the Bailiwick are central to the regulatory regime.

#### **3.2. States Directions**

The legislation also provides that the States of Guernsey may issue Directions to the Director General in relation to:

- the scope of the universal service to be provided in each sector;
- the identity of the person to whom the first licence with a universal service obligation is to be granted;
- any exclusive rights that may be granted in each sector; and
- requirements imposed to meet international obligations.

The States of Guernsey at its meeting on 30 March 2001 agreed a Direction to the Director General on the scope of the universal service obligation in the telecommunication sector<sup>1</sup>. The States also considered the issue of introducing competition into the telecommunications market and decided that competition would be beneficial to the Bailiwick and should be introduced as quickly as possible. The States put an outside limit of three years on the timetable for the opening up of all aspects of the market and directed the Director General to define the detail of that timetable.

The Director General expects that the States will consider and issue a Direction in relation to the identity of the first licensee to be issued a licence with a universal service obligation at its meeting in September 2001.

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<sup>1</sup> Billet d'Etat No. VI, 2001: States Board of Industry – States Directions on the Regulation of the Telecommunications Sector, p. 341 ([www.gov.gg/billets/2001/Billet\\_VI\\_2001.pdf](http://www.gov.gg/billets/2001/Billet_VI_2001.pdf))

### **3.3. Implementation of States Directions**

In order to implement the States Directions already received and those anticipated in the September meeting, the Director General has commenced a consultation on licence terms and conditions (Document OUR 01/03) which includes conditions relating to the provision of universal service.

The proposed licence terms and conditions also provide for the removal of the exclusive privilege enjoyed by Guernsey Telecoms (“GT”) in the provision of telecommunications networks and services in Guernsey. When the consultation on licence terms and conditions is concluded and the Director General publishes final licence terms and conditions, the timing of the removal of the exclusive privilege will be included.

## **4. Scope of Regulatory Framework**

In line with the principle of light-handed regulation, the Director General has sought to ensure that the regulatory regime is interpreted as applying only to networks and services that require regulation and is not over-wide in its application. Furthermore, she proposes that where feasible, activities should be exempted from the requirement for licensing. Where licences are required, the Director General intends to create a simple licensing regime with the minimum number of categories which will be designed to allow market forces to work freely wherever appropriate.

This section considers various categories of telecommunications activities, the legal provisions applying to those categories, and the appropriate types of licences or exemptions for each case.

The following categories are considered:

1. non-licensable activities that are outside the scope of the Regulatory Regime;
2. activities exempted in the law from the requirement to hold a licence;
3. activities that require a licence but that could be the subject of an exemption order under the law; and
4. activities that should be licensed using either a class licence or an individual licence.

### **4.1. Activates outside the scope of the Regulatory Regime**

#### **4.1.1. Exemption by Definition**

The Telecommunications Law defines those activities that are included within the regulatory regime and by exclusion, defines those activities that are not subject to the

regime and that can therefore be carried on without any licence, authorization or exemption.

The law provides that it is an offence to establish, maintain, operate or provide a telecommunications network or provide a telecommunications service without a licence. Definitions of the terms “telecommunications network” and “telecommunications service” are given in the Law and are reproduced at Annex A for convenience.

If any activity falls outside these definitions it is not subject to the regulatory regime and does not require licensing or exemption. Given the pace of development and change in technology, it is difficult to give definitive examples of these types of activities and if affected parties are unsure whether an activity falls within the regulatory regime or not, advice can be given by the OUR.

The list below provides some examples of the types of activities that would lie outside the definitions;

- Where a party is providing an audiotext service (e.g. Weatherdial), using a premium rate number, he is not providing a telecommunications service, but is in fact purchasing a telecommunications service in order to provide a “content” service.
- Similarly, a web site hosting facility may simply be providing the content or hosting service to third parties and may be purchasing telecommunications services to enable it to do so, but may not be providing telecommunications services itself. If an ISP is involved in providing access services or is reselling telecommunications services that could be interpreted as telecommunications services this would fall to be licensed.
- Someone who purchases and resells handsets and mobile telephony minutes as an agent of a licensed mobile operator, may not in fact providing a telecommunications service and therefore would not require a licence.

This list is without prejudice to the position in relation to any particular activity in the market and the Director General reserves the right to take the individual circumstances into account or to amend these descriptions from time to time.

#### 4.1.2. Exemption by Law

The Law specifies a number of activities that are exempted from the regulatory regime including the following (for a definitive list see the Telecommunications Law<sup>2</sup>):

- Telecommunications networks or services run by the States for the emergency services, including the police where the network or service is used only for the purposes of enabling the emergency or police services to carry out their primary duties;

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<sup>2</sup> Sub-section 1(2) of the Telecommunications (Bailiwick of Guernsey) Law, 2001

- Telecommunications networks operated for own use only, that are not connected to any other telecommunications network or equipment and are not provided to any third party;
- Broadcasting by a broadcasting authority licensed under Wireless Telegraphy legislation, and the receipt of broadcasting signals (for example using a TV receiver aerial);
- Activities carried out in accordance with a television licence as defined in the Wireless Telegraphy Acts.

It should be noted that in order to use wireless telegraphy equipment to provide any of the above services, a licence under the Wireless Telegraphy Acts may be required.

Where there is a lack of certainty as to whether or not an activity falls within the exempted activities set out above, the OUR will be happy to assist with interpretation on a case by case basis.

## **4.2. Activities within the Scope of the Regulatory Regime**

The activities that fall to be licensed under the Telecommunications Law include:

- The provision of telecommunications services to third parties, and
- The establishment, operation or maintenance of telecommunications networks that are used for the purpose of providing services to third parties or that are themselves provided to third parties for the provision of telecommunications services.

As a general guideline therefore, licensing is confined to telecommunications service and networks provided to the public.

### **4.2.1. Telecommunications Services**

A telecommunications service involves the “emission, transmission, switching, conveyance or reception of messages” on a telecommunications network. A decision on whether a service is a telecommunications service will need to be taken by the Director General on a case-by-case basis from the information provided in licence applications. The provision of service to the public will be interpreted in the sense that the service is not limited to a specific person or entity. The categorization of a service as a “telecommunications” service will be done by reference to the acts of “emission, transmission, switching, conveyance or reception”. By way of illustration, the following services are unlikely to be considered telecommunications service offered to the public:

- A call centre engaged only in providing telemarketing operations on an agency basis – this is considered to be limited to a specific entity;
- A simple audiotext service where access is provided using a third party premium rate service (e.g. Weatherdial) – where the service provider is providing an information service only and not a telecommunications service.

### **4.2.2. Telecommunications Networks**

Telecommunications networks are defined in the legislation as comprising



“telecommunications equipment for the emission, transmission, switching, conveyance or reception of messages through the agency of electric, magnetic, electro-magnetic, electro-chemical, electro-mechanical or electro-optical energy or by optic-electronic means”. Thus the establishment, operation and maintenance of any equipment or networks falling within this definition, where the network is being provided to a third party or where it is being used to provide services to a third party, requires a licence.

Once again, the Director General will consider applications on a case by case basis based on the information provided in application forms to decide whether a network falls within this definition.

## **5. The Licensing Framework**

In developing the licensing framework for telecommunications, the Director General will be guided, *inter alia*, by the principles set out in the Law, the States Directions and the guidelines set out in Document OUR 01/01 “Regulation in Guernsey – the OUR Approach and Consultation Procedures”.

### **5.1. Exemption by Order**

#### **5.1.1. Principles**

The law provides that the Director General can exempt activities from the requirement to hold a licence. This can be done by order<sup>3</sup>. In line with the principle of light handed regulation, the Director General proposes to exempt a number of activities by order where licensing would seem to be unnecessary. Reasons for using exemptions are:

- To reduce administrative “red tape” on the industry, thus reducing their costs of operating; and
- To make it easier for players to enter these parts of the market, thus facilitating competition in these services.

It should be noted that the making of exemption orders can include conditions, therefore the exemption from the requirement to hold a licence could be conditional on compliance with certain minimum requirements.

In considering whether or not to issue an exemption order, the Director General proposes to take into account the criteria set out below. The Director General will carry out an assessment on a case-by-case basis using these criteria as guidelines. However, the Director General reserves the right to take other relevant matters into consideration.

#### **Criteria for Considering Exemptions**

1. Is there a public interest concern that would require the licensing of the activity or service?

Where there is effective competitive provision of service public interest concerns may

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<sup>3</sup> Sub-section 1(3) of the Telecommunications (Bailiwick of Guernsey) Law, 2001

not arise because competitive pressures should address issues such as keeping prices down and ensuring good quality service is provided.

2. Are there public safety issues involved?

In some cases there may be international standards applying to certain services or activities, such as the CE marking system. Where those standards adequately ensure the protection of safety it should be unnecessary to re-regulate the activity.

3. Are there economic reasons for using licensing controls?

Where there is insufficient competition or it is unlikely that competition will become established, there may be a need to licence players to ensure that one or more strong players in the market do not abuse their position of market power.

4. Is there the prospect of competitive provision of the service or activity in the near future that would be enhanced or encouraged where entry into the market was simple and inexpensive?

The Director General will consider this point in conjunction with the public and economic interest issues and will balance the two. Where freeing up the market by exempting an activity is likely to lead to net benefits, the use of exemption orders will be considered.

*Q.5.1.1. Do respondents agree with these criteria? If not please suggest alternatives or deletions and explain why you consider these are appropriate.*

### 5.1.2. Proposed Exemptions

In particular the Director General notes that a number of activities are currently licensed by GT under the Telecommunications Law, 1972 either by general or individual licence. The following are the categories of services and networks that the Director General intends to exempt:

#### **Receive Only VSAT (Very Small Aperture Terminals)**

VSATS are used for a number of purposes, ranging from the receipt of satellite television to downloading data information in businesses. Clearly there are already multiple users of this type of technology and the Director General does not see any need for a licensing regime for receive only VSATs which are not connected to a public telecommunications network. The Director General notes that GT has already issued a “General Licence” for this type of equipment where the VSATs are receiving signals from earth orbiting systems only. The Director General does not consider it necessary to restrict the exemption to this particular category of VSAT, but proposes to exempt all receive only VSATs in Guernsey. This will not affect the obligation on any person to obtain any other permissions or authorisations as may be necessary to operate the VSAT, e.g. a licence under the Wireless Telegraphy Acts.

#### **The Installation, Operation and Maintenance of Customer Premises Equipment (CPE)**

The Director General notes that in 1984 GT issued a general licence to allow customers to purchase and connect for their use, CPE approved by the British Approvals Board for Telecommunications. This did not apply to CPE other than standard telephones, and in particular it did not include business equipment such as PBX's, Switchboards, etc. Furthermore it did not provide for the purchase and installation of the equipment by a third party (e.g. a contractor). This licence was extended to cover business CPE in January 1998.

The Director General notes that the market for CPE has been liberalised in all advanced telecommunications markets for some time now and considers that this is also the case *de facto* in Guernsey. She can see no reason to encompass this activity in the licensing regime and she proposes to exempt the operation, installation, connection and maintenance of all CPE from the requirement to be licensed, subject to the equipment being approved and certified to appropriate standards. The Director General will issue appropriate directions in relation to technical standards under section 12 of the Telecommunications Law.

For the purposes of this section, "CPE" has the same meaning as in the Telecommunications Law, i.e. "telecommunications apparatus located at a user's premises and connected to a telecommunications network at a network termination point".

### **The installation of internal wiring and equipment**

In 1994 GT issued a licence or approval to its residential and business customers, including their agents and contractors, to install internal cabling and wiring for connection to the GT telecommunications network.

Once again, this market has been liberalised for some time in all advanced telecommunications markets and is also liberalised by practice in Guernsey. Therefore the Director General proposes to exempt the operation, installation, connection and maintenance of all internal wiring from the requirement to be licensed. This will deal with situations where a contractor provides intra-building wiring services to a third party and the wiring is connected to the fixed public telecommunications network run by GT. However, it will not permit the connection of wiring for more than one business to each other or to equipment permitting the contractor to provide telecommunications services directly to the businesses or customers.

### **The Provision of ISP services**

Two different types of activities are often classed together as "ISP" services, although they are actually quite distinct;

- The first is the provision of access to the internet or access to an ISP, that is the carriage of telecommunications messages (in the form of IP packets) over telecommunications networks. This is a telecommunications service provided to the public and is a licensable activity.

- The second is the provision of pure ISP services – that is portal services, a gateway, or other content services such as information services.

The latter services do not constitute telecommunications services in the traditional sense.

The Director General notes that over the years GT has issued a number of licences to ISPs to provide services and therefore this market is liberalised in Guernsey. However, the ISPs do not have the right to build networks or carry traffic of third parties but must use GT’s network and services to do this.

The Director General considers that the pure ISP services do not require licensing and proposes for the avoidance of doubt to exempt these services from the requirement to hold a licence in the new regime. However, any ISP who wishes to transport traffic rather than handing it to a third party (e.g. GT), will require a licence to provide the internet access element of the service. This includes circumstances where the ISP is leasing circuits from GT and reselling “minutes” or carriage to customers.

*Q.5.1.2. Do respondents agree with these proposals? If you think any of these exemptions are not appropriate please say why. If you think there are other activities that should be exempted please explain your reasons.*

## **5.2. Licensing Framework**

The remaining activities that fall to be licensed under the Telecomms Law are:

- telecommunications services that are provided to third parties and
- telecommunications networks that are used for the purpose of providing services to third parties or that are themselves provided to third parties for the provision of telecommunications services.

As set out in section 3.2 above, the States have already decided that the telecommunications market in Guernsey should be opened up to competition as early as feasible and in any case within three years. The Director General also understands that the States will consider issuing a Direction on the identity of the first person to be issued a licence containing a Universal Service Obligation at its September meeting.

Within this framework, the Director General has prepared a licence text for the first USO provider which is the subject of a separate consultation paper (Document OUR 01/03: Telecommunications Licence Terms and Conditions – Public Consultation). That consultation addresses both mobile and fixed telecommunications licence terms.

This paper sets out other categories of licences that it is proposed to make available and the services and networks that will be covered by them. There will be further consultation on the application processes and the licence texts following the conclusion of this phase of the process.

### **5.3. Categories of Licences**

The Telecommunications Legislation provides for the use of either class licences or individual licences.

Class licences do not require individual application or individual issuing of licences. Instead a class licence allows parties to provide the services or networks defined in the class licence, subject to compliance with the terms and conditions in the class licence. Interested parties do not have to apply to be licensed but may be required to register the fact that they are or intend to provide services within the scope of the class licence. Registration may be necessary to facilitate enforcement of the conditions.

Individual licences require the interested party to apply for a licence in its own name, and terms and allow for an assessment of the suitability of the organisation concerned based on its individual merits. It also provides for the tailoring of conditions to that individual party if necessary.

The Director General has considered licensing regimes in other jurisdictions as well as the specific needs of the Bailiwick and has concluded that Guernsey should adopt a simple and straightforward licensing regime. This is in line with the principles of light handed regulation, simplicity and transparency, and the Director General believes it will minimise the regulatory burden on the sector. This is reflected in the draft licence terms and conditions set out in OUR Document 01/03.

The Director General proposes to describe six groups of organisations providing telecommunications services and networks and use these to drive the design of the licensing system. These are:

1. Service providers offering fixed telecommunications services to third parties but not requiring access to numbers and not intending to build networks so not requiring access to land or to frequency spectrum
2. Operators proposing to build fixed telecommunications networks and potentially requiring access to land numbers and spectrum or any of these
3. Operators with dominance in a relevant market in Guernsey
4. Operators with a Universal Service Obligation (initially GT)
5. Operators providing mobile telecommunications services in Guernsey but not requiring access to numbers and not intending to build networks so not requiring access to land or to frequency spectrum
6. Operators providing mobile telecommunications networks and services requiring access to numbers, land or spectrum.

There may be other organisations or groups of organisations that have unique licensing concerns. The Director General in presenting these six groups does not exclude the addition of others should the need arise.

The Director General anticipates that these groups may require different licence or authorisation terms and conditions. In addition some categories of activities may be appropriate to be licensed using the Class Licence mechanism and others using the

Individual Licence mechanism. In each case the Director General believes that all organisations within the same group should have similar licence terms and conditions wherever feasible. It is therefore proposed to develop standard licence conditions for each group. Furthermore it is likely that the licences will comprise modular building blocks reflecting the type of operator. For example, an operator in category 3 and 4 (dominant and with a Universal Service Obligation) will have all of the conditions of an operator in category 2 (a fixed telecommunications network operator) as well as some specific conditions relating to dominance and its USO, while the category 2 operator (a network operator) will have a licence that includes the conditions of the category 1 operator (a fixed telecommunications service provider).

If this approach is adopted, the concept would also apply in principle to GT and so the consultation on the terms and conditions of GT's licence is relevant.

*Q 5.3.1: Do respondents agree with this categorisation of licence types? If not are there alternative categories or additional categories that should be considered and why?*

*Q 5.3.2: Is it appropriate that all licensees in a given category should have similar terms and conditions?*

### 5.3.1. Licence to Provide Fixed Telecommunications Services

A licence to provide telecommunications services would entitle the holder to provide local, national and international services over fixed networks, but not to build or operate telecommunications networks. Thus the licensee would be required to make use of the existing GT fixed network either on the basis of purchasing switched minutes (carrier selection) or by purchasing leased circuits over which its traffic could be routed. Alternatively, if other licensed networks exist, the Licensee could make use of those networks. The Licensee would then be free to sell these services on to third parties.

If using leased lines or carrier selection, the Licensee would be entitled to fair, non-discriminatory conditions for these services from the dominant operator in the market. In particular the dominant operator would have to provide terms and conditions that were no less favourable to those offered to its' own downstream arm.

The Licensee would be entitled to apply for carrier codes for use in identifying its traffic but would not be entitled to receive numbers for allocation to end customers. As the Licensee would not be establishing a network it could not seek to have the rights in relation to accessing land that are set out in the Code to the Telecommunications Law applied to it.

### 5.3.2. Licence to Provide Fixed Telecommunications Networks

This licence would authorise the holder to provide telecommunications services and to establish, operate and maintain telecommunications networks.

The Licence would bring with it certain entitlements and obligations, including:

- The entitlement to apply for and use numbers for allocation to end users. Numbers are a limited resource and must be used appropriately, therefore the

- entitlement to use these would be balanced by obligations to use numbers effectively and efficiently;
- The entitlement to apply to have the rights of access to land set out in the Code to the Telecommunications Law applied. These rights may only be granted where there is no other technical or economically feasible way for the Licensee to provide its network or services and having regard to the principles set out in the Regulation Law;
  - The entitlement to interconnect the network with the network of dominant operators, on fair, transparent and cost-oriented terms, so as to ensure that users of one network can communicate with users of the other network and the obligation to negotiate with any other appropriate licensee for interconnection to its network;
  - The entitlement to seek access to the network of dominant operators at technically and economically feasible points in order to provide its network and services – this could include sharing of facilities.

It would be open to the Licensee to choose the most appropriate technology to use in building a network, ranging from the establishment of a network based entirely on lines leased from GT, connected by appropriate switching equipment and apparatus, to the installation of fibre or other fixed network which in turn could be put in existing ducting in the ground. Other alternatives include the use of satellite technology or radio links similar to those used by GT. The Licence application would have to specifically address this matter and it would be evaluated on a case by case basis.

The use of radio spectrum to build telecommunications networks other than mobile networks is becoming more common, both in the backbone network and the access network. The technology to build an access network using radio technology is known as “Fixed Wireless Access” and has been licensed in other jurisdictions. As this method of providing networks involves the use of frequency spectrum, the licensing of this type of activity will be co-ordinated with the Radiocommunications Agency in the UK which has the responsibility for managing the spectrum allocation for Guernsey. Furthermore, as the spectrum is a scarce resource, a fair and transparent application process would be required. The Director General considers that this is an area where it would be appropriate to consult further before making final decisions and this is addressed in section 6 below.

### 5.3.3. Fixed Licensees with a Dominant Position in the Market

Licensees with a dominant position in the market are subject to specific conditions in the Telecommunications Laws and it is proposed to specify certain conditions to apply to them in the licensing regime. Document OUR01/04 sets out the Director General’s proposed decision that GT is dominant in certain relevant markets and therefore these are likely to apply to GT. It is important that these conditions are in place as these will govern the ability of new entrants to set up service provision or network provision. The proposed licence conditions are set out in more detail in consultation paper OUR01/03. The types of requirements that are likely to be placed on dominant operators, arising from the Telecoms Law and the proposed licence conditions, include (but are not limited to):

- The requirement to provide a reference offer setting out the terms and conditions on which new entrants will be able to obtain access to the network;
- The obligation to provide interconnection with its network;
- Price regulation of retail prices; and
- The requirement to behave in a non-discriminatory way when dealing with competitors and its own business downstream arms.

In accordance with the modular licensing approach, these conditions would be non-discriminatory and could be applied to any operator that obtained a dominant position in the market.

#### 5.3.4. Fixed Licensees with a Universal Service Obligation

In accordance with States Direction to the Regulator, at least one licensee must be obliged to provide universal service throughout the Bailiwick<sup>4</sup>. The Director General further understands that the States proposes to issue a Direction that GT Limited should be issued the first licence to contain such a Universal Service Obligation. The Director General notes that the Laws provide that certain conditions may be included that are specifically associated with this Obligation and notes that if another operator were to have a USO placed in their licence it is likely that the same conditions would apply.

#### 5.3.5. Mobile Telephony Services

A licence to provide mobile telephony services would entitle the holder to provide such services using existing licensed mobile telephony networks in Guernsey, but not to build or operate its own network. Some jurisdictions do not issue licences for mobile service providers on the basis that the resale of minutes on a mobile network does not constitute the provision of mobile services. Developments in these markets mean that the provision of services by operators called Mobile Virtual Network Operators (MVNOs) has become a possibility and this provides further opportunities in mobile markets. Given the significant number of issues that arise in relation to mobile networks and services, the Director General considers that a further examination and consultation would be appropriate before determining the licensing structure for mobile.

#### 5.3.6. Mobile Telephony Networks

The final category is the provision of mobile telephony networks (and services). Currently GT has a right to provide GSM services in the Bailiwick and in order that this service can continue to be provided, it will be necessary to issue a licence to GT to carry on this activity from 1<sup>st</sup> October 2001 (see Document OUR 01/03 for further detail). In most jurisdictions there are competing mobile operators and competition in this market has been the subject of significant discussion throughout Europe and the UK. In addition, technological advances mean that mobile telephony services in higher bandwidths, including third generation (3G) services can now be provided and it is expected that GT along with other operators may have an interest in providing such services.

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<sup>4</sup> See Policy Letter "Board of Industry – States Directions on the Regulation of the Telecommunications Sector, Billet d’Etat No VI, 2001



Because these services and networks require the use of frequency spectrum which is a limited resource, it is essential that a fair and transparent application process is in place to allow all interested parties to apply for the use of that resource and this matter must be addressed in conjunction with the Radiocommunications Agency which issues Wireless Telegraphy Licences in Guernsey.

As with mobile services, the Director General believes that it is appropriate to hold a specific consultation on this topic before a final licence structure is defined.

*Q5.3.3: Please state which, if any, of the above categories you consider should be subject to class licensing or individual licensing.*

## **6. Timing and Transition**

The relevant legislation is expected to come into force on 1<sup>st</sup> October 2001 and it includes transition provisions for any party already licensed under the existing Telecommunications (Guernsey) Law, 1972. Parties currently holding a licence under that law will continue to be able to provide services in accordance with the licence for a period of six months from the commencement of the Telecoms Law, or the expiry date of their licence, whichever is the sooner.

Holders of licences will be required to notify the Office of Utility Regulation of their status and apply for a further licence if necessary within two months of the commencement of the Law. In order to ensure that existing licensees and potential new entrants can apply for appropriate licence types within this timeframe, the Director General intends to implement the following timetable:

Publication of response to this consultation, including categories of Licences	September 2001
Publication of Licence terms and conditions for the first operator in the market with a Universal Service Obligation (including timetable for removal of exclusive privileges)	September 2001
Consultation on application procedures for licences	October 2001
Consultation on terms and conditions for new licences	October 2001

The Director General considers that this is a realistic timetable based on the workload for the OUR, for GT and for parties interested in entering the market. She also believes this is compatible with the Laws and States Directions.

## **7. Conclusion**

There are a range of other elements that will be addressed in parallel with the development of these licensing regimes, including:

- Terms and conditions for access to and interconnection with the fixed network;
- Terms and conditions for interconnection with the mobile network;
- The availability of numbers and carrier codes; and
- The availability of frequency spectrum and co-ordination with the UK Radiocommunications Agency.

Where necessary further consultations will be held on these and related topics.

This paper sets out the approach that the Director General proposes to take to opening up the telecommunications sector in Guernsey and the development of licensing regimes for various activities in the market. The views of interested parties are invited.

**/END**

## Extracts from the Telecommunications Law

### Section defining what requires a licence

*“(1) Subject to the provisions of subsections (2) and (3), a person shall not -  
(a) establish, operate or maintain a telecommunications network; or  
(b) provide a telecommunications service;  
in the Bailiwick except under the authority of and in accordance with the conditions of a licence granted by the Director General under this Part of this Law; and a person who contravenes any provision of this subsection shall be guilty of an offence”*

### Definition of Telecommunications Network and Service

*“**telecommunications network**” means a network comprising telecommunications equipment for the emission, transmission, switching, conveyance or reception of messages through the agency of electric, magnetic, electro-magnetic, electro-chemical, electro-mechanical or electro-optical energy or by optic-electronic means;*

*“**telecommunications service**” means a service consisting of the emission, transmission, switching, conveyance or reception of messages within, to or from the Bailiwick by means of a telecommunications network;*

### Associated definitions

*“**telecommunications apparatus**” means apparatus designed, constructed or adapted for use in emitting, transmitting, switching, conveying or receiving messages by means of a telecommunications network, including -*

- (a) wire used for the purpose of telecommunications services together with any casing, coating, tube or pipe enclosing it and any telecommunications apparatus connected to it for the purpose of telecommunications; and*
- (b) any apparatus used for transmitting messages or other communications by means of electric signals;*

*“**telecommunications equipment**” means equipment designed, constructed or adapted for use in connection with the establishment or operation of a telecommunications network or the provision of a telecommunications service, including telecommunications apparatus, poles, structures, ducts, man-holes and other tangible property;*