



Office of Utility Regulation

Review of Mobile Licence Conditions

Final Decision

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1. Introduction

The Office of Utility Regulation (OUR) published a consultation on its review of regulation in the mobile market in May 2010, followed by a Draft Decision in December 2010. The OUR's objective for this consultation process was to assess the opportunity for reducing its regulatory requirements on companies holding a licence to provide mobile telecommunication services. This document sets out the OUR's final decision, having received responses from licensees to the draft decision and the consultation paper.

The OUR has confirmed moves to relax the obligations on mobile operators by reducing the conditions set out in their licences. These changes include issuing the same simplified licence to all companies, removing certain reporting requirements, taking account of mobile number portability, reflecting the benefit of competition in network quality and coverage but maintaining the option of contributions from operators to the cost of maintaining a universal service and removing the obligation on the dominant operator to notify its competitors of price changes before it makes them. The OUR has decided also to remove some restrictions on spectrum use between 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. Structure of the Paper

The rest of this paper is structured as follows:

Section 3: This section describes the legal framework for mobile telecommunications licensing and provides relevant background information;

Section 4: Responses received are discussed;

Section 5: Lists the decisions following the consultation process;

Section 6: Sets out next steps.

Comments

In accordance with the OUR's policy on consultation as set out in document 05/28¹, all non-confidential responses have been published on the OUR's website, www.regutil.gg and are available for inspection at the OUR's office during normal working hours.

¹ OUR 05/28: Regulation in Guernsey: Revised Consultation Procedures Information Paper

3. Legislative and Licensing Background

Statutory Requirements

Section 2 (1) of the Telecommunications (Bailiwick of Guernsey) Law 2001 (the “Telecoms Law”) describes the DG’s responsibilities regarding the granting of licences for telecommunications networks and services. Having regard to the objectives set out in section 2 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (the “Regulation Law”), and subject to the provisions of any States’ Directions, the DG may grant a licence authorising any person to establish, operate and maintain a telecommunications network or to provide telecommunications services of any class or description specified in the licence.

Section 3 (1) of the Telecoms Law describes the DG’s responsibilities for publishing details of the procedures to be followed and criteria in relation to applications for, and the grant of, a licence.

Licensing Background

On 1 October 2001, the DG issued a mobile telecommunications licence to Guernsey Telecoms Limited, which had become a States Trading Company on the same day. This licence was issued following a States’ direction to the DG resolved in accordance with section 3(1)(a) of the Regulation Law.²

In May 2002, the DG published a consultation paper (OUR 02/18), entitled “Mobile Telecommunications Licence Terms and Conditions”, which focused on the licence obligations and conditions for the new 2G and 3G licensees. This followed an earlier consultation paper “Mobile Telephony Licensing in Guernsey” (OUR 01/25) published in December 2001 and the subsequent “Report on the Consultation and Decision Paper” published in April 2002 (OUR 02/14). The May Consultation Paper sought the views and comments of interested parties on issues and principles to be applied to the new mobile telecommunications network licences being awarded at that time. The DG’s intention was to develop a licensing regime that fostered competition between mobile operators and service providers in order to maximise the benefits to Guernsey consumers in terms of prices, innovation and quality of service.

Following the consultation process, a competition to award the mobile licences was launched at the end of 2002 and in March 2003 the DG awarded Wave both a 2G and a 3G mobile licence.

² *States Resolution, 2001, pages 78-80*

In November 2005 the DG commenced a further process aimed at awarding a further licence. He published a document entitled “Competition for Mobile Telecommunications Licences; Call for Expressions of Interest and Call for Comments on Preliminary Tender Document” (05/27), inviting expressions of interest from interested parties. Following consideration of the two responses and further work by the OUR itself the DG launched the second mobile licence competition in February 2006 with the publication of the rules of the competition in “Competition for 3G Mobile Telecommunications Licence; Information Memorandum” (OUR 06/04). He also published his consideration of the comments made by respondents to the earlier call for expressions of interest to address certain matters raised by respondents at that time in a document entitled “Competition for 3G Mobile Telecommunications Licence; Report on the Consultation” (OUR 06/03).

Two applications were received, from Guernsey Airtel Limited (GAL) and Cable & Wireless Guernsey Ltd (C&WG). The latter had taken over the original mobile telecommunications licence granted to Guernsey Telecoms Ltd in 2001. Following a detailed assessment of both applications, the DG ranked the GAL application first and commenced negotiations on the terms of its licences. These discussions concluded successfully and in September 2006 GAL was awarded a 2G licence and a 3G licence and launched services in March 2008.

In 2009, the DG issued a consultation document (OUR 09/06) on a proposal to issue an additional 3G mobile licence to further increase competition in the mobile market in Guernsey. This consultation followed a review of the mobile market, the conclusions of which had been published in a separate OUR document (OUR 09/05).

Respondents to OUR 09/06 raised no objections to the proposals in that document, nor to the option of proceeding straight to a final decision, subject to C&WG’s agreement to the conditions set out. C&WG confirmed its acceptance of those conditions and the DG issued a further 3G mobile licence to C&WG in 2009.

Licensing Background

Under section 8 of the Telecoms Law, the DG may, after giving notice and after consideration of any representations made to him, amend any condition of a licence issued by him to a licensed operator. The DG is required by law to give a minimum of seven days notice of any proposed modification. In addition each operator’s licence contains a condition which enables the DG to amend a licence subject to compliance with the Telecoms Law.

4. Responses to the Draft Decision document

The OUR received two responses to its December Draft Decision (OUR 10/16). These were from C&WG and Wave Telecom (Wave). GAL – the third licensed mobile operator – arranged a meeting with the OUR to discuss its comments. The DG would like to express his thanks to these companies for their contributions.

This section sets out the OUR's proposals and a summary of the three companies' responses. The full text of the responses received are published in accordance with the OUR's consultation procedures on the OUR's website (www.regutil.gg).

Technology Neutrality

OUR 09/06 set out a final decision, namely:

Once this licensing round is complete, all three operators' licences will be amended to remove the restrictions on the use to which their spectrum allocation in the 900MHz, 1800MHz and 2100MHz bands can be used. Therefore the DG confirms his decision to amend all three mobile operators' licences to remove the restriction on use of spectrum. He will later this year initiate the formal process for amending a licence as required under the Telecommunications (Bailiwick of Guernsey) Law 2001

It was not the DG's intention to extend technology neutrality beyond the above frequency bands since these other frequency bands potentially offer a means of furthering competition, not only in mobile, but in fixed telecom services also. He would not wish to see a situation develop where the dominant operator was able to control new spectrum without appropriate ex-ante regulation that secured the aims of promoting competition. The DG therefore considered the extension of technology neutrality to all such spectrum may impede the potential for further competition and he did not propose to extend technology neutrality beyond the 900MHz, 1800MHz and 2100MHz frequency bands.

Summary of responses

C&WG accepted the DG's reasons for not wishing to extend technology neutrality beyond the 900MHz, 1800MHz and 2100MHz frequency bands at this time. In discussions with the OUR, GAL noted that the 5Mhz available to it in the 900Mhz band was non-contiguous, which was a barrier to its ability to benefit from a move towards technology neutrality that extended to all three bands since it could only achieve such benefits in the 1800MHz and 2100Mhz bands. This presented risks that spectrum neutrality as proposed in the draft decision would contribute to an uneven

playing field in the absence of greater alignment of 900MHz spectrum between the operators.

DG assessment

In light of the issues raised following the draft decision, the DG has concerns that while a move to technology neutrality across the three bands will benefit those operators with adequate allocations in each band to support both 2G and 3G services, in the 900Mhz band those without contiguous 5Mhz allocations will not be able to benefit from the move. Since one aim of the review of mobile licence conditions is to create a more even playing field, greater caution is required before making the change to the extent proposed in the draft decision.

For this reason, the DG will only proceed with the necessary amendments to mobile licences to allow 2G and 3G services to be delivered using any of the 900Mhz, 1800Mhz and 2100Mhz bands when such a change enables all operators to benefit. In modifying current licences as part of this final decision he will remove restrictions on the use of 2G and 3G services only for the 1800 and 2100 MHz bands. Removal of restrictions on the use of 2G and 3G services across all three bands (900, 1800 and 2100 MHz) will be permitted in licence conditions when it is considered that all operators will benefit from such a move.

Mobile Number Portability

It was proposed that Licence conditions relating to numbering would need to be revised as they pre-date the introduction of mobile number portability (MNP). For example, Condition 17.1 of both C&WG's 2G and 3G Licences state that it can only use numbers that have been allocated to it.

DG Draft Decision

The OUR agreed that the licence condition relating to numbering would need to be re-written to take account of the implications of MNP to the extent necessary.

Summary of responses

No objections were made to this proposal by respondents.

DG Assessment

The DG has since further investigated the changes needed to mobile licences to take account of MNP since the conditions relating to numbering pre-dated the introduction of MNP. On closer examination, he found that no changes to licence conditions are in fact necessary as the principle behind the allocation of numbers to mobile operators by the responsible authority – the UK Office of Communications – were unchanged by the introduction of MNP.

Specific Licence Conditions

The OUR considered each of the licence conditions in turn and assessed whether it was necessary to amend them in view of the current and potential competitive environment. For each licence condition reviewed, the views of the DG as set out in the draft decision document is provided, together with a summary of the responses received and an assessment of the issues by the DG. For simplicity, condition numbers below relate to the GAL 3G Licence. The text of each of the mobile licences currently held by the three mobile operators may be found on the OUR website.

Condition No. 9: Integrity of the Network.

This condition provides for the Licensee to take steps necessary to ensure the integrity of the network. The Licensee may refuse to provide telecoms services (as defined in the Telecoms Law) which it is obliged to provide to a particular user if providing those services would be likely to cause damage or interference to the network or services.

This condition is designed to afford the operators a level of protection against having to connect any particular customer or equipment to its network when to do so may cause damage to the network. However, as there is now competition in the mobile market, it was considered it may be more appropriate for operators to make such decisions on a commercial basis. The DG asked for views of interested parties as to whether this condition was still required.

DG Draft Decision

The DG had proposed removing this condition and replacing it with a condition stating operators accept that, in the event of any disputes relating to the integrity of the mobile network, the OUR retains its role as the final independent arbitrator.

The DG believed such a condition, which provides comfort to operators and benefits the vast majority of customers by protecting network integrity, does not add to the burden of regulation but lightens it by clarifying operators' obligations and rights.

Summary of responses

No objections were made to this proposal by respondents.

Condition No. 12: Service to the public

The purpose of this condition is to ensure that a minimum mobile service and coverage is provided to mobile customers in the Bailiwick. The text of the licence condition varies from operator to operator, depending on when the licence was issued and whether it contains specific conditions 'volunteered' by an operator in a mobile competition.

DG Draft Decision

The DG believed that adequate coverage should not be taken for granted, particularly in the smaller islands of Alderney, Sark and Herm. He therefore agreed that the condition relating to the creation of a USO fund should remain.

As coverage is extensive and quality of service is high, and in light of the provisions for a USO fund to ensure accessibility and availability of service, the OUR proposed removal of the other parts of condition 12. The DG believed that it was in the interest of operators to maximise coverage, with quality of service a key differentiator for increasing market share. Therefore it was in the commercial interests of operators to maintain both these standards. The DG preferred to avoid using subjective wording which could create regulatory uncertainty and proposed to deal with any issues relating to coverage and quality of service through both the USO and on a case by case, ex-post basis.

Summary of responses

No objections were made to this proposal by respondents.

Condition No. 14: Directory Information

This condition requires the licensee to ensure that users have access to directory information services and operator-assisted services offered by the licensee or any Other Licensed Operator (OLO) that is obliged to provide such services. This condition also requires a licensee to co-operate in making information available to enable a directory information service to be provided. It also requires the Licensee to ensure that it does not use information provided by OLOs for any purpose other than the directory information service, and to comply with data protection legislation.

Sure (C&WG) is obliged, as the USO provider, to provide a paper based directory and to make available a telephone-based directory enquiry service. Neither Wave nor GAL have these obligations but they are required to ensure their customers can access directory services.

Wave and GAL are therefore currently obliged to provide directory information to Sure to enable it to meet its obligations in providing the USO insofar as it relates to directory services. Sure is not similarly required under its licence to make directory information available to OLOs, and such operators must source their directory information (if required) commercially (for example the DG understands Wave Telecom sources the data for its directory from BT).

Sure now publishes a 'White Pages' directory (which is in effect the USO requirement) and OLOs are currently required to provide information to Sure free of charge to enable the compilation of the White Pages directory and, generally to co-operate with Sure in this respect. OLOs (currently only Wave Telecom) that produce

their own directory must however pay other operators for the data. Moreover, Sure also publishes a Yellow Pages directory in the same book as the White Pages. As Sure benefits commercially from the inclusion of the classified directory with the USO directory, one aspect consulted on was that the current licence condition on OLOs may be discriminatory.

DG Draft Decision

While there were issues raised by some respondents, the development of a charging regime and quality standards would represent a greater level of regulation than currently exists. Given the opposing views and the fact that the current system appeared to function adequately, the DG was not inclined to make changes to the current approach.

Summary of responses

No objections were made to this proposal by respondents.

Condition No. 15: Network and Service Development

All licensees are required to roll-out and operate the Mobile Network so as progressively to achieve standards in line with best practice and comply with the relevant standards. The purpose of the condition is to ensure mobile services are provided in Guernsey in such a way as to ensure Guernsey mobile users benefit from the availability of leading edge mobile services that are on a par with those available elsewhere.

DG assessment

The DG acknowledged the reassurances provided by all operators regarding the minimal risk of consumers being stuck in bad contracts. Therefore the DG was minded to remove the condition and deal with such problems on an ex-post basis. However, the DG proposed to keep the existence of long-term contracts under review in case control was required in future.

Summary of responses

No objections were made to this proposal by respondents.

Condition No. 16: Technical Quality of Network

This licence condition currently appears in the GAL and Wave mobile licences. Under the condition, the Licensee is required to meet the minimum standards with respect to the following quality of service indicators: blocking rate, call drop rate, network capacity, service availability and speech quality. The purpose is to ensure high quality voice and data service quality across the network.

DG Draft Decision

In order to maintain the move to lighter touch regulation, the DG proposed to reconcile the different positions by removing the condition but providing for a periodic review of investment in the network and review of issues arising.

Summary of responses

No objections were made to this proposal by respondents.

Condition No. 17: Consumer Protection

This condition requires the licensee to publish certain information with regard to its services and conditions and file it with the DG, to publish the manner in which it will deal with customer complaints, the protection of consumer privacy, the provision of itemised billing and the publication of a consumer code for the resolution of disputes and in relation to the non-payment of bills and disconnections. It also requires licensees to prepare a draft statement on its minimum service levels for customers, to ensure the accuracy and reliability of systems including billing systems.

The importance of some level of consumer protection is generally widely accepted. In Guernsey, given the absence of wider consumer protection legislation, the need for oversight may be considered greater. At an international level, the relevant EU Framework Directive (Article 8, part 4)³, which all member states have adopted, says that the national regulatory authorities shall protect their citizens by:

“(b) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures;

(c) ensuring a high level of protection of personal data and privacy;

(d) requiring transparency of tariffs and conditions for using publicly available electronic communications services”

In light of this, the OUR was less persuaded to remove this element of the condition.

The OUR also emphasised that the complaints process should be easy to follow, and the OUR should remain as the last resort for complaints. The DG noted that, as

³ European Framework Directive “On a common regulatory framework for electronic communications networks and services” (2000), http://ec.europa.eu/information_society/topics/telecoms/regulatory/new_rf/documents/l_10_820020424en00330050.pdf

products and services become increasingly complex, it was important that the terms and conditions are easy to understand, transparent and accessible.

To-date, the OUR requires operators to notify it of changes to terms & conditions. Given the level of competition in the market and the ease with which mobile users can now switch operators, the DG was minded no longer to require notification of changes to terms and conditions. He believed that if matters came to light with respect to the terms and conditions, the OUR would reserve the ability to review and make amendment to the terms and conditions where concerns were well founded and address any consumer issues arising. It would however be important that terms and conditions were easily accessible and simple for consumers to understand.

An area where the DG was also minded to remove a requirement was in the provision of 6 monthly reports on consumer complaints. While the monitoring of operators' responses to complaints remained important, the frequency of the provision of this information was less so. He believed it good business practice for operators to satisfy themselves as to their approach to dealing appropriately with consumer issues. In a more competitive market the incentives to do so are stronger than those brought about simply by regulation alone. Therefore the DG was minded to drop the requirement to report on consumer complaints but proposes to retain the right to request information on how complaints were dealt with and request a log of all complaints in the event that evidence of any systemic issues arose.

One further area where the DG welcomed comments was on the need for consumer councils in the telecoms market. This requirement was included in the original licences issued to all three incumbent utility providers in 2001 and reflected that, as there was no competition, some avenue for consumers' views and concerns to be communicated directly to the company was required. For the purpose of this consultation, the DG's focus was on the continued relevance of such councils for a market where competition is becoming more effective. Choice is a powerful weapon for consumers in sending signals to a company on whether its performance is delivering what consumers need. While the DG understood the activity of the consumer council in telecoms had been very limited, he welcomed views on whether there remained a need for the regulator to mandate a consumer council in the telecoms market.

DG Draft Decision

The DG's view is that the conditions discussed above could be removed, provided there is an obligation that changes to terms and conditions are tracked, issues are logged, and records are made available to the OUR on request, otherwise, potentially, on an annual basis. The DG noted that there could be a demand for some type of forum in which views on consumer and technology issues in Guernsey could

be exchanged. The DG saw the value of this and, if resources permitted, would take a role of facilitator if required. However, the DG does not consider that this needed to be provided by licence conditions.

Summary of responses

Wave committed to logging changes to its terms and conditions and ensuring that the latest version is available on its website. Wave believe that the least onerous method of providing the OUR with information regarding consumer issues would be on a request basis, as and when the complaint is received by the OUR given the resources involved in compiling annual reports of this nature.

C&WG had understood the Draft Decision as proposing removal of the condition completely, where it had reservations, but supported the proposal to remove the requirements to file terms & conditions with the OUR and to provide 6 monthly reports.

DG assessment

The DG's draft decision was in fact to retain much of this condition but no longer to require notification of changes to terms and conditions and to remove the requirement for provision of 6 monthly reports on consumer complaints. However, the DG would retain the right to request information on how complaints were dealt with and request a log of all complaints in the event that evidence of any systemic issues arose. This will be reflected in the decision set out in Section 5.

Condition No. 18: Environmental protection

Condition 18 reflects the DG's duty to lessen where practicable any adverse impact of utility activities on the environment and only GAL has this specific licence condition. In GAL's licence this includes the use of methods to minimise the visual disruption caused by deploying its network, equipment solutions which are energy efficient where possible, providing recycling facilities for unused parts, holding an annual environmental meeting, publishing details of its environmental strategy and approach and reporting on these steps within six months of the Licence commencement date.

DG Draft Decision

This licence condition is applicable only to GAL and was made in the context of its licence application in 2006. Neither C&WG nor Wave is subject to this requirement and the DG believes the market has now developed further since 2006 when GAL placed its bid offering these conditions as part of its licence.

The DG was not aware that the absence of this condition in C&WG or Wave's licence had led to concerns in this area. The DG was therefore of the view that market forces

are best left to dictate what operators bring to the market rather than regulatory requirements of this nature through a licence condition and he proposed to remove this licence condition from GAL's licence and bring it into line with the licences of C&WG and Wave.

Summary of responses

No objections were made to this proposal by respondents.

Condition No. 19: Monitoring Performance

The mobile licences all contain requirements for the operators to report on their performance against certain quality of service targets. The detail and the nature of what is required in that report is varied and the nature of the reports submitted has also varied in detail. The licence conditions do make provision for the DG to specify how this information should be presented, however to-date there has not been a standard methodology or approach mandated by the OUR.

DG Draft Decision

The DG therefore proposed to remove this licence obligation and replace it with a requirement on the operators to develop guidance in line with requirements set by the OUR. In this way it was intended that a more dynamic, proportionate approach might be taken in future that provides information to consumers where it was needed.

Summary of responses

Wave welcomed the development of performance monitoring guidelines, reiterating that performance metrics should be developed with the consumer in mind and be easy to interpret and in plain English. C&WG responded that if the DG was proposing to consult with the operators, and require their active engagement in developing an appropriate set of quality of service measures, it agreed with the proposal.

Condition No.31: Price Regulated Services

This condition is applicable to dominant operators only. In the mobile market in Guernsey currently it is applied to Sure (C&WG) only, and only to 'regulated services'.

The DG may determine the maximum level of charges the Licensee may apply for services within a Relevant Market in which the Licensee has been found to be dominant. Moreover, the Licensee in question must publish, 21 days in advance, notice of any price changes, discounts or special offers it intends to introduce. If the DG considers any published price, discount scheme or special offer is in breach of the Telecoms Law or this License, the DG may require these prices to be brought in line with the requirements of this Licence.

DG Draft Decision

The existence of market share in excess of 70% by Sure in the provision of retail mobile services remains high, even after some 7 years since competition commenced with the launch of service by Wave in 2004. This suggests a considerable degree of caution is required so as not to hinder the continued development of competition.

There are however drawbacks to the notification system. There is a concern that the system dampens competitive response by operators who can rely on the 21 day price notification system to match offers made by the incumbent. A dampening of the competitive response is particularly likely when bidding for large contracts, where other operators might be tempted to bid prices relative to the dominant operator's prices rather than their own costs, which may be less than that of the dominant operators. In such cases the consumer does not benefit from the full potential of competition.

An additional concern is that the dominant operator is inhibited in terms of innovation given it is required to give a long period of notice to its competitors of product launches. Since innovation by the dominant operator makes a positive contribution to the market it was appropriate to consider how this negative impact might be reduced without unduly exposing the market to abusive pricing practices.

Given other operators have a means of redress through the fair competition licensing condition in Sure's licence, the DG was satisfied he had sufficient powers to address any concerns that may arise in future. He also saw merit in removing what might be a restraint on Sure's potential to innovate given the stage of competition development in this market. He therefore proposed to remove the 21 day notice requirement placed on the dominant operator in the licence conditions. He would however require the dominant operator to notify the DG of price changes on the day they come into effect so that he had all the relevant information to hand when the offer was made to the market.

Summary of responses

C&WG welcomes the proposal but maintains even this requirement was unnecessary. C&WG does not believe it has a dominant market position despite having a relatively high share of the mobile market and requested the DG to give a commitment to review this requirement within a short time period.

DG assessment

The DG does not concur with C&WG's assessment of its degree of market power but does in any event continue to monitor market developments. Changes to current mobile licences in this final decision are intended to remove unnecessary differences between the obligations on mobile operators and therefore contribute to a more even playing field.

Condition No.35 - 38: Customer Support

These final conditions exist only in the GAL licence and were part of their 3G license bid. Below we set out what each condition relates to and then some general issues for consideration relating to all the conditions.

Condition No.35: Customer Support	The Licensee shall ensure its Users are provided with customer support 24 hours a day throughout the year, as well as other customer service standards and penalties for failing to satisfy them.
Condition No.36: New Services	This condition sets minimum numbers of new product, service and tariff launches for Licensees and penalties for non-compliance.
Condition No.37: Price Reductions	In order to promote increased competition in the 3G mobile telecommunications market, the Licensee will deliver annual price reductions for the specified years, with progress reports and penalties for non-compliance.
Condition No.38: Open Portal	The Licensee will provide a local information portal, with major travel and weather news, with open and non-discriminatory access to this portal, as well as assisting the local culture and tourist boards the means to develop a mobile portal listing.

DG Draft Decision

The DG accepted the comments that he should be assured that current licence conditions were met and proposed to meet GAL to confirm compliance with these conditions, which if satisfactory, would see him remove these requirements.

Summary of responses

No objections were made to this proposal by respondents. The DG has since met with GAL and received assurances as to its compliance with these licence conditions.

Term Limits

Each of the mobile licences contains a determination of its term. In the case of GAL's 2G and 3G licences and Sure and Wave's 3G licences the term is 20 years; all other mobile licences are for 15 years. As the licences have been granted at different stages the length left to run on each licence varies from 5 years in the case of Sure's 2G licence to 19 years in the case of its 3G licence which was granted in 2009.

DG Draft Decision

The DG noted that removing term limits altogether could give operators greater certainty and, thus, provide incentives for long term investments. He recognized the need for a notice period to protect consumers and find alternatives. Therefore the DG proposed to remove the term limits but include a 3-year notice period in the licence.

Summary of responses

No objections were made to this proposal by respondents. C&WG wished to have confirmation in the final decision whether this was the notice period operators had to give if they wished to relinquish their licence.

DG assessment

The DG confirms that the notice period applies to operators who wish to relinquish their licences.

5. DG Decision

This section of the document sets out the DG's decisions in respect of the issues addressed above.

Technology Neutrality

All three operators licences will be amended to remove the existing restrictions on the use to which their spectrum allocation in the 1800MHz and 2100MHz bands can be used.

Integrity of the Network

The DG will remove the licence condition relating to the 'Integrity of the Network'. He proposes to replace this condition with one that states operators will accept that, in the event of any disputes relating to the integrity of the mobile network, the OUR retains its role as the final independent arbitrator.

Service to the Public

The DG will retain the condition relating to the creation of a USO fund. He proposes to remove the other parts of the licence condition relating to 'Service to the Public'. He will deal with any issues relating to coverage and quality of service through both the USO and on a case by case, ex-post basis.

Directory Information

The DG does not propose to make changes to the current approach.

Network Service Development

The DG will remove this condition and deal with such problems on an ex-post basis. However, the DG will keep the existence of long-term contracts under review.

Technical Quality of the Network

The DG will remove this condition but provide for a periodic review of investment in the network and review of issues arising.

Consumer Protection

The DG will retain this condition but remove certain elements. He will no longer require notification of changes to terms and conditions and will remove the requirement for provision of 6 monthly reports on consumer complaints while retaining the right to request information, particularly on how complaints were dealt with, and request a log of all complaints in the event that evidence of any systemic

issues arose. The DG sees the value of a consumer forum and, if resources permitted, would take a role of facilitator if required. However, he does not consider that this needs to be provided through licence condition.

Environmental Protection

This licence condition is applicable to GAL only. The DG will remove this licence condition from GAL's licence and bring it into line with the licences of C&WG and Wave.

Monitoring Performance

The DG will remove this licence obligation and replace it with a requirement on the operators to develop guidance in line with requirements set by the OUR.

Price Regulated Services

The DG will remove the 21 day notice requirement placed on the dominant operator in the licence conditions. He will however require the dominant operator to notify the DG of price changes on the day they come into effect so that he has all the relevant information to hand when the offer is made to the market.

Customer Support

The DG will remove Conditions 35-38 from GAL's licence.

Term Limits

The DG will remove the term limits but include a 3-year notice period for operators in the licence.

6. Next Steps

The DG is grateful to the mobile operators for their assistance and pragmatic approach to this review. The changes being announced in this decision should enhance competition in the mobile market, reduce the level of regulatory oversight and compliance reporting, whilst still allowing the DG to regulate the market in a way that will protect consumers.

Following this final decision, the DG will consult with licensees on the precise wording of the modified licence conditions in accordance with the statutory procedures for such changes in order to bring these changes into effect.

/ends
