



Office of Utility Regulation

Mobile Number Portability

Statutory Notification

Direction to Cable and Wireless Guernsey Limited, Wave Telecom Limited and Guernsey Airtel Limited under Section 27 of the Telecommunications (Bailiwick of Guernsey) Law, 2001

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1. Introduction

In March 2007, the OUR consulted on a possible approach to implementing MNP that involved working with the mobile operators and regulator in Jersey with a view to implementing a common solution in both Islands at the same time. Following recent discussions hosted jointly by the OUR and the JCRA, the three mobile operators have agreed to implement MNP in Guernsey and Jersey by 1st December 2008. In February 2008 the DG consulted on a draft direction to formally record this agreement.

Following consideration of responses to that consultation the DG is now issuing a direction on MNP to Guernsey Airtel Ltd, C&W Guernsey Ltd and Wave Telecom Ltd.

2. Legal Background & Regulatory Framework

Section 2 of the Regulation of Utilities (Bailiwick of Guernsey) Law 2001 (“Regulation Law”) imposes a duty on the DG to promote, inter alia, the following objectives;

“

- (a) to protect the interest of consumers and other users in the Bailiwick in respect of the prices charged for, and the quality, service levels permanence and variety of utility services;...*
- (c) to ensure that utility activities are carried out in such a way as best to serve and contribute to the economic and social development and well-being of the Bailiwick*
- (d) to introduce, maintain and promote effective and sustainable competition in the provision of utility services in the Bailiwick.....”*

Section 5 of the Regulation Law provides the DG with the power to determine the licence conditions that may be included in a licence under which utility activities may be carried out. Section 5(1) of the Telecommunications (Bailiwick of Guernsey) Law, 2001 (the “Telecoms Law”), provides that the DG may include in licences such conditions as he considers necessary to carry out his functions.

In 2001 the DG consulted on the general conditions to be included in the licences to be issued to mobile telecoms operators (OUR 01/03). This was originally carried out prior to the commercialization of the then Guernsey Telecom to ensure that on commercialization the company was properly licensed under the various utility laws to continue providing services in the Bailiwick. Following completion of the consultation the DG determined that the following condition should be included in Guernsey Telecom’s (now C&W Guernsey) licence;

17. NUMBERING

17.1 The Licensee shall use only those Numbers that are allocated to it for the purpose of terminating Messages on the Licensed Mobile Telecommunications

Network and shall comply with any directions concerning use and allocation which are issued by the Director General from time to time

17.2 The Licensee shall manage any Numbers allocated to it with a view to conserving Numbers as a public resource and shall maintain a record of the status of all Numbers allocated to it and on request, shall provide that information to the Director General

17.3 The Licensee shall not charge its customers for allocations of numbers except where authorised and in accordance with any direction from the Director General.

17.4 The Licensee shall comply with any directions issued by the Director General in respect of Number Portability. (emphasis added)

In the licence ‘Number Portability’ is defined as

*“**Number Portability**”: means a service enabling a Subscriber to transfer his contract with the Licensee to another Licensed Operator within the Bailiwick and retain the same Number allocated to that Subscriber by the Licensee;*

Since 2001, the OUR has introduced competition to the mobile market and both Airtel and Wave Telecom are now licensed to provide mobile services in the Bailiwick. Both operators’ mobile licences contain similar conditions to that in the C&WG licence with regard to number portability.

It should be noted that the license condition relating to number portability is applicable to all operators, not just those that have been determined by the DG to be dominant in a relevant market

Separate to the specific legal framework relating to MNP is the general regulatory framework within which the DG is expected to carry out his general duties and functions. Following a review of commercialisation in 2005, the States of Deliberation in May 2006 passed a number of resolutions relating to the manner in which regulation in Guernsey should be implemented. Among these was a resolution¹ which stated:

“(a) add a duty for the Director General of Regulation to “regulate in a way that is proportionate to Guernsey circumstances”;

¹ Extract from Resolutions passed by States of Deliberation in May 2006 – Billet X

3. Comments received on proposed Direction to Guernsey Airtel Ltd, C&W Guernsey Ltd and Wave Telecom Ltd

The Director General proposed to direct:

- Guernsey Airtel Ltd in accordance with condition 20.4 of its 2G and 3G licences;
- C&W Guernsey Ltd in accordance with condition 17.4 of its 2G licences; and
- Wave Telecom in accordance with condition 19.4 of its 2G and 3G licences

to implement MNP in Guernsey by 1st December 2008. The operators were further directed to participate in and co-operate fully with the MNP Steering Group and to provide all reasonable resources to enable MNP to be implemented successfully by 1st December 2008.

C&WG responded to the consultation, requesting any direction on timing should reflect that a pan-channel Island solution was underway and deadlines set in any direction should reflect the timing of launch of MNP in Jersey also.

Director General's Position

It is the case that a pan-Channel Island initiative is currently in process. This has been initiated in order to achieve economies in cost of a single solution shared by both Islands. From the perspective of the OUR however, the benefit of MNP to Guernsey is the singular motive for the initiative and the DG is therefore reluctant to make the benefits of a successful implementation of MNP in Guernsey, contingent on successful implementation in Jersey. He does note however that all mobile companies in both Guernsey and Jersey have signed an agreement that commits their companies to achieving the implementation of MNP by 1st December 2008.

More relevantly, the regulatory obligations arising from any direction are governed by the regulatory regime in the Bailiwick of Guernsey. A direction that is conditional on developments in another jurisdiction does not therefore seem appropriate, given any direction issued to telecom operators licensed by the OUR is confined to the jurisdiction of Guernsey.

The DG therefore cannot see any benefit in modifying his proposed direction, in light of both the agreement currently in place between the operators and the scope of the regulation laws in the Bailiwick, to link it with the timing of MNP in Jersey.

4. Direction to Guernsey Airtel Ltd, C&W Guernsey Ltd and Wave Telecom Ltd

The Director General hereby directs:

- Guernsey Airtel Ltd in accordance with condition 20.4 of its 2G and 3G licences;
- C&W Guernsey Ltd in accordance with condition 17.4 of its 2G licences; and
- Wave Telecom in accordance with condition 19.4 of its 2G and 3G licences

to implement MNP in Guernsey by 1st December 2008. The operators are further directed to participate in and co-operate fully with the MNP Steering Group and to provide all reasonable resources to enable MNP to be implemented successfully by 1st December 2008.

ENDS