



Office of Utility Regulation

# Review of Mobile Termination Rates in Guernsey

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## Invitation to Tender

**December 2008**

**Office of Utility Regulation**  
Suites B1 & B2, Hirzel Court, St Peter Port, Guernsey, GY1 2NH  
Tel: (0)1481 711120, Fax: (0)1481 711140, Web: [www.regutil.gg](http://www.regutil.gg)

## **Invitation to Tender**

### **Review of Cable & Wireless Guernsey, Wave Telecom, and Guernsey Airtel's Mobile Termination Rates**

**Issued by the Office of Utility Regulation**  
**1st December 2008**

#### **PART I: OVERVIEW**

##### **Introduction**

1. This document constitutes an invitation from the Office of Utility Regulation ("OUR") to tender for a contract to provide specialist advice and assistance with respect to a review on the Mobile Termination Rates ("MTR") of the Bailiwick of Guernsey's three mobile operators, Cable & Wireless Guernsey ("C&WG"), Wave Telecom Limited ("Wave"), and Guernsey Airtel Limited ("Airtel").
2. The OUR invites interested companies to tender for a contract to provide a detailed assessment of the proposed rates for the Bailiwick's mobile operators termination charges provided by them and the justification for those charges.
3. This invitation to tender is structured as follows:

**Part I** introduces the contract on offer and describes the timetable and process for submission of tenders.

**Part II** provides background information on the Bailiwick's mobile operators and the regulatory regime within the Bailiwick which you may wish to take into account in drawing up a tender.

**Part III** describes the scope of the project.

**Part IV** states the information required by the OUR in order to consider the tender.

##### **Submission of tenders**

4. The closing date for responses is Wednesday 7th January 2009 and all tenders submitted should be valid for a minimum of 30 days from this date.
5. Proposals must be addressed to Cesar Coelho, Office of Utility Regulation, Suites B1 & B2, Hirzel Court, St Peter Port, Guernsey, GY1 2NH and be delivered to this address before 5pm on the closing date.
6. Applicants must submit two copies of their proposal which should be clearly marked "Proposal for Review of MTRs in Guernsey". Electronically delivered proposals delivered by the deadline will be considered acceptable, provided two hard copies of the electronically delivered proposal are also provided.
7. Short listed applicants may be invited for a discussion of their proposals. The OUR expects to be able to announce the results of this tender process within four weeks of

the closing date.

8. Following the selection of the successful applicant the OUR will expect to agree a formal binding contract with that applicant within one week of the decision being announced. The OUR reserve the right to include material included in this Terms of Reference and the material included in the response from the successful tenderer into the terms and conditions of the contract.
9. OUR will accept no liability for any expenditure incurred by the applicant in preparing a tender, whether or not submitted, and whether or not successful.

## **PART II: BACKGROUND INFORMATION FOR THE TENDER**

### **Legislative Background**

10. The OUR is the independent regulator established to regulate the electricity, post and telecoms sectors. The legislative package establishing the various responsibilities and duties of the OUR was introduced on 1<sup>st</sup> October 2001<sup>1</sup>. The overarching policy of the States of Guernsey in the telecoms sector, as described in the relevant Laws, is to:
    - ensure that Guernsey consumers receive the best in terms of price, choice and quality of telecommunications services, and
    - ensure that the Bailiwick has a vibrant, innovative and sustainable telecommunications sector.
- Full details of the legislation governing the regulation of the telecoms market can be found on the OUR website - [www.regutil.gg/licensing\\_legal/legal\\_framework.asp](http://www.regutil.gg/licensing_legal/legal_framework.asp).
11. The legislative and regulatory regime provided for the liberalisation of the telecommunications market and new operators were able to provide fixed services from 1<sup>st</sup> July 2002, fixed networks from 1<sup>st</sup> December 2002 and mobile networks and services from 1<sup>st</sup> April 2003.
  12. Guernsey Telecoms Limited has been granted a GSM 900 licence to provide 2<sup>nd</sup> generation (“2G”) mobile services on the 1<sup>st</sup> October 2001. C&WG bought Guernsey Telecoms Limited from the States of Guernsey in May 2002. The States of Guernsey is the democratically elected, independent governing body for Guernsey.
  13. Wave received a GSM 1800 and a 3<sup>rd</sup> generation (“3G”) 2100 licence to provide 2G and 3G mobile services on the 23<sup>rd</sup> March 2003. Finally, Airtel was issued a GSM 1800 and a 3G 2100 licence to provide mobile services on the 15<sup>th</sup> September 2006. Airtel has launched commercial services in April 2008.
  14. Section 10 of the Telecommunications (Bailiwick of Guernsey) Law, 2001 (the “Telecoms Law”) provides for the DG to direct any licensee that has been designated as being dominant in a relevant market to comply with certain obligations under this section of the Law. Such obligations provide for a licensee which is found to be

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<sup>1</sup> The relevant legislation includes the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 and the Telecommunications (Bailiwick of Guernsey) Law, 2001. Copies of these documents are available from the OUR website [www.regutil.gg](http://www.regutil.gg).

dominant in the relevant market to offer interconnection and access services at charges that must be transparent and costs oriented having regard to the need to promote efficiency and sustainable competition and maximise consumer benefit. The current MTR were determined by the OUR and took effect from 1<sup>st</sup> April 2007 (OUR 07/03).

15. As the period of three years during which the current rates are to be fixed is approaching to an end, the OUR believes there is merit in reviewing these rates to assess whether they still remain appropriate and reflect the cost of providing these services.

## **Regulatory Regime**

16. 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. The Telecoms Law specifically provides that such conditions can include (but are not limited to):
  - conditions intended to prevent and control anti-competitive behaviour; and
  - conditions regulating the prices, premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market.
17. Under section 10(2)(c) of the Telecommunications (Bailiwick of Guernsey) Law, 2001, a licensee found to be dominant in a relevant market is obliged to provide interconnection and access on “terms, conditions and charges that are transparent and cost-oriented”.
18. In addition, Section 10(4) of the Telecoms Law provides for the DG to require a licensee to justify the costs of and charges for providing interconnection or access and to show that those charges are derived from actual costs.
19. These provisions allow the DG to regulate MTRs, should there be a need for regulatory intervention.
20. The DG has determined that all three mobile operators to be dominant in the wholesale mobile telecommunications market on their respective networks. As a result each operators’ licence contains a condition that allows the DG to regulate the prices that a licensee charges for its telecommunications services in a way and for a time that he deems appropriate, provided the licensee has a dominant position in the relevant market.
21. In August 2006 the OUR published a consultation paper entitled “Mobile Termination Rates” (“MTRs”) (OUR 06/14), which was followed by a draft decision paper (OUR 06/19) in December 2006. The purpose of the consultation process was to consult interested parties on whether regulatory oversight was required and, if so, which method should be used to establish a set of reasonably efficient mobile voice call termination charges.

22. The draft decision paper proposed in the first instance that there was a need for the DG to intervene in setting MTRs within the Bailiwick. The DG therefore proposed that a benchmarking approach were to be taken, and that the Ofcom approach to setting MTRs be used as the basis for such benchmarking.
23. The current rates were determined in February 2007 following the final decision on the consultation process (OUR 07/03). Using the Ofcom approach and benchmarking against international MTRs as published by the ERG at that time, an MTR of 6.75ppm fixed for three years took effect from the 1<sup>st</sup> April 2007. This is a maximum target average charge (“TAC”) that applies to voice termination calls only, on both 2G and 3G networks.

### **PART III: SCOPE AND OBJECTIVES OF THE PROJECT**

#### **Objectives**

24. The successful tenderer will be required to critically review the three mobile operators proposed MTR, assess the degree to which the justification offered for those charges allows the DG to determine if they are cost-oriented and justified. They will also be required to comment on the level of justification provided and identify any areas where, in their expert opinion, the level of justification is not adequate. Mobile operators will be requested to provide support for their current MTR in due course, and this is anticipated to be received by 1<sup>st</sup> February 2009.
25. The tenderer may also be asked to propose, based on the information available, appropriate mobile termination pricing methodologies and rates, should it form a view that those proposed by the mobile operators are not compliant.
26. The successful tenderer will be expected to draw upon their practical and academic expertise in the area of MTR and place this in the context of the Bailiwick of Guernsey, taking into account the stage of development of the liberalisation of the market and the impact of technological change in the market.

#### **Scope of the Project**

27. In realising the project objectives, the successful tenderer will need to:
  - a. Review the cost justification provided by the mobile operators;
  - b. Assess the degree to which the justification is adequate to satisfy the DG that the rates are in compliance with the legislation;
  - c. If necessary, identify any shortcomings in the justification or methodology used to determine the rates, and propose any alternative methodology to determine proper rates;
  - d. Engage with the mobile operators to ascertain such additional information as may be required to ensure the level of information available to the OUR is such as to enable the DG to make a decision on the appropriateness of the rates for the market; and

- e. Prepare a report for the OUR on its conclusions following the completion of these tasks.
28. The OUR expects that these tasks will form an essential part of the scope of the project, but this is not a comprehensive list and tenderers are invited to clearly state the approach and process they propose to use to meet the requirements of this Invitation to Tender.
29. Likewise the OUR anticipates that the successful tenderer will need to meet with the mobile operators to discuss some of the assumptions contained in its proposal as part of this process and will therefore need to be based in Guernsey for part of the project.

### Timetable and Deliverables

30. It is envisaged that the project will commence in February 2009. An indicative timetable and the scope of the project deliverables is provided below:

Timetable	Deliverables
<p>February – March 2009</p> <ul style="list-style-type: none"> <li>• Review of mobile operators MTR pricing methodologies and charges</li> <li>• Submission of Supplementary information requests if necessary;</li> </ul>	<p>Key Deliverables</p> <ul style="list-style-type: none"> <li>• End February; provide an informed opinion on adequacy of mobile operators MTR methodologies and charges, views on the appropriateness of the justification for the proposed charges and on assumptions with respect to mobile termination services and charges; This should include an initial assessment of the cost information, a view regarding international practices on MTRs, and the approach going forward.</li> <li>• Where additional information is required, provide a detailed list of any additional information requirements from the mobile operators. This information request will be forwarded by the OUR to the mobile operators. The consultants will be required to review any additional information provided.</li> <li>• Upon receipt, and along with the consultants own modelling work, a formal report to the OUR setting out the Consultant’s clear view on the appropriate MTRs to apply in Guernsey will be submitted, which sets out the justification and rationale for the proposed rates. This report will be used to inform an OUR consultation which will be published by end April 2009.</li> </ul>
<p>June/July 2009</p> <ul style="list-style-type: none"> <li>• Review response to Consultation.</li> </ul>	<p>Key Deliverables</p> <ul style="list-style-type: none"> <li>• The OUR envisages to consult the industry by the end of April on the methodologies that will be used to set MTRs. Responses to the consultation will be received by Mid June 2009 and the consultants will be expected to assist in reviewing any comments received at that time. The consultants may be required to meet with the mobile operators to discuss any points of clarification necessary prior to the submission of comments; The consultant’s report on this phase will be used to support a Draft Decision which</li> </ul>

	will be published by End July 2009.
September 2009	Key Deliverables
<ul style="list-style-type: none"> <li>Review response to Final Decision.</li> </ul>	<ul style="list-style-type: none"> <li>Responses to the Draft Decision consultation will be received by Mid September. By the end of September, the consultants will submit a final report to the DG with recommendations to inform Final Decision.</li> </ul>

31. In undertaking this process the successful tenderer should make its recommendations explicit throughout all the work it provides, as well as providing justification for their views in a clear and transparent manner that the OUR considers satisfactory.
32. The consultant will be required to provide an electronic copy of all draft and finalised working papers and reports (in Microsoft Word), as well as two hard copies of all finalised working papers and reports. The consultant should also provide in Microsoft Excel all numerical work associated with all draft and finalised working papers and reports.
33. The work will be conducted in English and all deliverables will be submitted in English.

### **Qualifications**

34. The consultants should have:
  - a. Substantial economic and finance experience in general and in assessing interconnection tariffs in the telecoms market;
  - b. A proven track record in the analysis and provision of robust advice to support regulatory decisions; and
  - c. Team members who have specific relevant experience of this type of project.

### **Confidentiality**

35. The successful applicant must agree to a confidentiality agreement covering the firm and the individuals assigned to the project.

### **PART IV: INFORMATION REQUIRED FROM THE TENDER**

36. The following information is required from the applicant for the tender:
  - a. Demonstration of a clear understanding of the work to be performed. This should include a brief preliminary discussion of the specific areas that are considered of particular relevance to Guernsey and why. In undertaking this, there are various documents on the OUR's website, [www.regutil.gg](http://www.regutil.gg), providing background information on the telecoms sector in Guernsey.
  - b. A detailed description of the methodology that the applicant intends to adopt.

This should include the envisaged project timetable containing any additional milestones for deliverables that the applicant specified in response to paragraph 30 as appropriate.

- c. Information regarding the expertise and experience of the specific people who will carry out the work including full CVs of the staff proposed for the project. This will also identify the role undertaken by members of the proposed project team.
  - d. Description of previous relevant project experience of the organisation.
  - e. Management arrangements for ensuring the successful completion of the project.
  - f. A clear statement that the firm has no existing conflict of interest in relation to the proposed assignment and will not place itself in such a position while retained by the OUR. Tenderers are required to disclose any matter which may give rise to a potential conflict of interest.
  - g. A commitment that in the event a member of the project team withdraws part way through the project, the successful tenderer shall ensure that the OUR does not incur any additional costs in ensuring the new team member is brought up to speed. The OUR would expect the consultant to have the necessary means to transfer knowledge amongst its staff.
  - h. Daily rates of each team member in pounds Sterling (daily rates to be based on 8 hours per day) together with the anticipated number of man days for each team member.
  - i. The total cost of the services tendered for including a breakdown of the person days or effort required (stating whether this is inclusive or exclusive of VAT, note that VAT is not applicable within the Bailiwick).
37. The applicant is free to supplement the required information, and to provide illustrations or add background details where they are necessary to provide a clear understanding of the proposals or are likely to add materially to the OUR's understanding of the applicant's intentions in providing the service. However, the submission from applicants should be no longer than 20 A4 pages, with supplementary information contained in relevant annexes.
38. The applicant may be invited to clarify submitted information.
39. OUR requires a fixed cost quotation for the work and rates must be fixed for the duration of the project. Travel and related expenses must be included in the quotation along with any other charges.
40. The tenderer is invited to define payment terms relating payments to the provision of deliverables by the consultant. For the avoidance of doubt the OUR will not authorise payments to be made simply on the basis of the signing of the contract between the Office and the successful applicant.
41. Any exchange rate risk will be borne by the applicant.

42. The OUR is not bound to accept any tender received or the lowest tender. Selection will be based on compliance with this request for proposal documentation and, inter alia, the following matters:
- a) Understanding of the issues;
  - b) Approach and methodology proposed and its appropriateness for the Guernsey market;
  - c) The calibre and relevant previous experience of the team;
  - d) Price; and
  - e) Value for money.