

# Commerce and Employment Department

## DEPARTMENT'S RESPONSE TO THE CONSULTATION ON THE CHARGE ON TELECOMMUNICATIONS ACTIVITIES UTILISING RADIO SPECTRUM

27<sup>th</sup> November 2013

### PURPOSE OF THIS DOCUMENT

This document is the Commerce and Employment Department's response to the feedback received to the consultation launched on 13<sup>th</sup> May 2013, with regard to the proposal to introduce a charge on certain telecommunications activities utilising radio spectrum.

### CONSULTATION PROPOSAL

The consultation sought feedback on the following in-principle decision by the Department's Board:

***"the Board is considering introducing legislation to enable the Department to set a charge in the order of 5% of operators' revenue arising from all activities which utilise spectrum for telecommunications purposes in Guernsey – including, but not limited to, 2G, 3G, 4G and fixed wireless access services."***

### CONSULTATION FEEDBACK

The Department is grateful for the feedback received. A total of nine responses were received, from the following respondents:

- The Channel Islands Competition and Regulatory Authorities (CICRA)
- The three current mobile network operators (Sure, JT and Airtel-Vodafone)
- A telecommunications company not currently operating in Guernsey
- One employer representative organisation
- Two private sector organisations
- One individual

Careful consideration was given to:

- The need to manage the Island's radio spectrum resource for the benefit of the Island's community.
- The changing demand for radio spectrum utilisation.
- The concerns expressed by respondents.

Following consideration of these matters, the Board has reached a decision on its policy for setting a charge on certain telecommunications activities utilising radio spectrum.

The activities subject to this charge are those provided by virtue of a Licence issued by the Guernsey Competition and Regulatory Authority (GCRA) for the provision of Licensed Mobile Telecommunications Services, as defined in the said Licence.

## POLICY

The Board remains of the view that as radio spectrum is a limited Island resource which is utilised for commercial gain by telecommunications operators holding a GCRA Licence in to provide mobile telecommunication services within the Bailiwick of Guernsey, it would be appropriate for these operators to make a financial contribution to the Island in recognition of this fact.

Furthermore, as mobile data usage is predicted to rise significantly over the coming years, it is likely that this resource will be put under increasing pressure as operators make increasing use of this resource.

Consequently, the Board will seek to introduce legislation to enable the Department to set a charge based on operators' revenue arising from the activities which utilise spectrum for mobile telecommunications purposes in Guernsey – as defined above and including, but not limited to, 2G, 3G and 4G mobile services. As for fixed wireless links, these will be excluded from the scope of the charge, for reasons explained in the next section ('Scope of the charge').

The Board acknowledges the concerns expressed by respondents regarding a potential charge of 5% of annual revenue, with respect to operators' profit margins in a competitive market for telecommunications services, and at a time where mobile network operators are preparing to invest in new infrastructure to support the imminent deployment of 4G mobile services.

Therefore, the Board has made the decision to introduce the charge at a lower rate than suggested in the consultation document.

**Consequently, the spectrum charge will be calculated on the basis of an annual rate of 2% of mobile network operators' spectrum-related relevant revenue.**

Furthermore, given the likely timeframe required to implement the legislation necessary to introduce the policy, the charge will not apply to revenue earned before 1<sup>st</sup> January 2015.

The charge will be levied on all operators of Licensed Mobile Telecommunications Networks serving the Guernsey market, based on their spectrum-related revenue arising from that market.

For the avoidance of doubt:

- This charge is not a tax on consumption, but a charge on the mobile network operators' spectrum-related activities, measured through relevant revenue.
- This charge will not apply to the mobile network operators' activities in other jurisdictions, such as Jersey.

The scope of the charge and revenue deemed relevant are detailed in the next section ('Scope of the charge').

## SCOPE OF THE CHARGE

The following section details which elements of Licensed Mobile Telecommunications Networks' spectrum-related revenue are within the scope of the charge, and which ones are outside of its scope.

**Data and telephony services:** The spectrum charge will apply to revenue earned from the sale of services which enable customers to send and receive calls and data wirelessly (for example through the use of 2G, 3G, 4G or subsequent technologies). This includes – but is not limited to – revenue generated from the sale of contracts for mobile telephony and/or data services (inclusive of any handsets or other connected devices provided as part of these contracts), as well as revenue earned through connection or usage charges for mobile services.

**Roaming services:** Revenue generated from roaming-in services – i.e. services to customers of non-Guernsey networks when they are visiting the Island – is within the scope of the charge, as roaming-in services rely primarily on the Island's radio spectrum. However, revenue generated from roaming-out services – i.e. those used by customers of Guernsey operators who are roaming out on networks outside of Guernsey – is outside of the scope of the charge, as roaming-out services rely primarily on radio spectrum outside of the Island.

**Fixed wireless data links:** The Department is currently reviewing the Island's Broadband connectivity provision. Fixed wireless data links utilise radio spectrum to connect two fixed locations. In future this technology may provide Guernsey businesses and households with increased choice for high speed internet access, particularly for those more remote premises for which establishing a fibre optic connection would be relatively expensive or technically difficult. Furthermore, fixed wireless links are covered by GCRA licences for fixed rather than mobile telecommunications services. Therefore, the charge will not be applied to revenue generated through fixed wireless data links.

**Sark and Alderney:** The charge will only apply to the relevant telecommunications activities arising in Guernsey (including Herm). The Department will not apply the charge to any telecommunications activities arising in Sark or Alderney. Please note that consultation will take place separately with Alderney to investigate the potential introduction of this (or a similar) charge by the States of Alderney for relevant telecommunications activities arising in that Island. In addition, and for the avoidance of doubt, the wireless links between Guernsey and, respectively, Herm, Sark and Alderney, are considered to be outside of the scope of the charge. These links utilise spectrum as a substitute for subsea fibre optic cables, and are effectively part of the Islands' fixed network infrastructure.

**Other users of spectrum:** There are a number of other local users of spectrum, who utilise spectrum for reasons other than the provision of telecommunications network services to consumers and businesses. These users of spectrum are outside of the scope of the charge. Such users include – but are not limited to – television and radio broadcasters, providers of aviation services, marine transport, taxi drivers, the emergency services, and Programme Making and Special Events (PMSE) spectrum users.

## NEXT STEPS

The Commerce and Employment Department will present a report to the States seeking approval for the necessary legislation in early 2014. The charge will be applied to the relevant annual revenue of all telecommunications operators holding a Licence issued by the GCRA for the provision of Licensed Mobile Telecommunications Services, as defined in the said Licence, and arising from (but not before) 1<sup>st</sup> January 2015, subject to the implementation of the necessary legislation.

The Department will confirm the charging arrangements with licensed operators in 2014, subject to States approval.