

Commerce and Employment Department

Response to CICRA's January 2013 consultation on the approach to change of control notifications under telecommunications licences

Background

The Department's ongoing work on producing an Economic Development Strategy for Guernsey (in conjunction with the Policy Council's Fiscal and Economic Policy Group [FEPG]) has shown that having an internationally competitive Information and Communications Technology (ICT) infrastructure is one of the key drivers that will facilitate economic growth across all sectors of the Island's economy going forward.

Therefore, it is essential that any owner of a telecommunications operator in Guernsey puts its strategic data connectivity assets to the most effective and efficient use possible, for the benefit of the Island's residents, businesses and economy. The essentiality of that commitment should be relative to the market presence, penetration and breadth of services offered to both the business community and general public.

It is within this context that the Commerce and Employment Department is providing its views on the approach to be taken to an assessment of change of control notifications under telecoms licensees. The Department's response to the two questions set out in the consultation document is provided below.

Question 1: Respondents are asked to indicate what factors they consider to be relevant to an assessment of a change of control under the relevant provisions in the licences.

The Commerce and Employment Department supports CICRA's provisional view that the approach to the assessment of change of control notifications for telecommunications licences should, from Guernsey's perspective, be informed by the general duties imposed on CICRA under Section 2 of *The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001*, as quoted in the consultation document on pp 7-8.

Moreover, the Department believes that CICRA should have particular regard to objectives (a) and (c), which are reproduced below:

"(a) to protect the interests 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"

In addition, the Department believes that when assessing change of control notifications for telecommunications licenses, CICRA should also have regard to the following qualities in any new owner or controlling entity:

- The intention to maintain and enhance the telecommunications operator's data-carrying infrastructure, demonstrated through a detailed long-term investment plan.
- A genuine long term commitment to the Island, and a dedication to encouraging growth in both local business and inward investment, achieved through:
 - Supplying a range of suitable fixed and wireless telecommunications products and services, which meet the demands of both residential customers and business customers of all sizes.
 - A commitment to provide competitive and transparent pricing for these products and services, so as to allow the Island's businesses to compete effectively in the global economy.
 - Maintaining a significant on-Island presence, achieved through maximising the utilisation of the local labour force and investing in employees' skills.

Question 2: Respondents are asked to indicate whether a commitment to support the respective States' strategic objectives with respect to the telecommunications sector should be regarded as a relevant factor for consideration, and if so, the best method by which to secure such a commitment.

The Commerce and Employment Department's mandate includes the following objective:

"(a) To advise the States on matters relating to the creation of a dynamic and diversified economy through the promotion and development of commerce and industry that is sustainable and operates in accordance with the strategic, economic, social and environmental policies of the States."

This supports a number of the States Strategic Plan's fiscal and economic objectives¹, including:

- The following government of Guernsey's aims:
 - *"Improve the quality of life of Islanders."*
 - *"Secure the Island's economic future."*
- And the following general objectives of the Fiscal and Economic Plan:
 - *"Diversified, broadly balanced economy."*
 - *"Well regulated, competitive domestic markets."*

¹ Billet XVI 2011, *Policy Council – States Strategic Plan 2011-2016*, p 1939.

The development of an Economic Development Strategy by the Department in conjunction with FEPG is being carried out in support of these States strategic objectives, among others.

As part of the Economic Development Strategy public consultation carried out in October 2012, consultees were asked to score 21 opportunities according to how important they felt each was.² Of those, Opportunity 1, *Ensure an internationally competitive ICT infrastructure*, achieved the highest average score from the 242 responses received. Although it must be noted that the top 10 opportunities all scored very strongly, this result does suggest that Islanders and local businesses see resilient and affordable data connectivity as crucial to the Island's future economic development.

Indeed, this opportunity will likely feature as one of the key priorities of the Digital Strategy section of the Economic Development Strategy, which is being developed by the cross-departmental ICT Strategic Working Group. Furthermore, the importance of Guernsey maintaining and enhancing a resilient and affordable data-carrying infrastructure was highlighted (among other priorities) in a progress report by the Group to the Policy Council, which the Policy Council endorsed in July 2012.

Consequently, the Department believes that a commitment to ensuring that Guernsey's ICT infrastructure is resilient and internationally competitive should be regarded as a relevant factor for consideration by CICRA.

If CICRA takes the view that a review of the telecommunications licence terms is an appropriate forum for demonstrating such a commitment (if necessary, supported in due course by a States direction under an Ordinance under Section 3(1A) of the *Regulation of Utilities (Bailiwick of Guernsey) Law 2001*) the Department would potentially support such a view. Alternatively, a service level agreement tailored to the size and activities of the telecommunications operator could be another option. The Department believes that ultimately CICRA would be best placed to make a decision on the most appropriate method to secure such a commitment.

Conclusion

The Commerce and Employment Department supports CICRA's provisional view that the approach to the assessment of change of control notifications should be informed by the statutory duties imposed on CICRA. In addition, the Department believes that CICRA should have regard to a number of qualities which demonstrate the owner's commitment to the long term development of Guernsey's economy.

Furthermore, the Department's ongoing development of an Economic Development Strategy, including a Digital Strategy, has shown that ensuring an internationally competitive ICT infrastructure is a top priority for the Island. Therefore, it is important that any owner of a telecommunications operator in Guernsey puts its strategic data connectivity assets to the most effective and efficient use possible, for the benefit of the Island's residents, businesses and economy.

²This included the 13 opportunities identified by Oxford Economics in their February 2012 report: Oxford Economics, *Towards an Economic Development Strategy for Guernsey: Review of Guernsey's Economic Profile and Assessment of Future Opportunities*, February 2012.