# Channel Islands Wholesale Access Project – Wholesale Line Rental (WLR)

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# Final Decision

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# 1. Introduction

This paper constitutes the Final Decision (**FD**) of the Guernsey Competition and Regulatory Authority (**GCRA**) on the modification to the fixed telecommunications licence for Cable and Wireless Guernsey Limited (**CWG**), required to introduce Wholesale Line Rental (**WLR**) on CWG's fixed telecommunications network in Guernsey.

It follows the GCRA's Draft Decision (**DD**) and Jersey Competition Regulatory Authority's (**JCRA**) Initial Notice (**IN**) of November 2012 (documents CICRA[1] 12/52 and 12/53 respectively), setting out proposed licence modifications for CWG and JT (Jersey) Limited (**JT**).

This paper summarises the responses and sets out the GCRA decision to proceed with licence modifications mandating the introduction of WLR by CWG in Guernsey no later than 7 November 2013.

**Background**

Wholesale access to the fixed telecommunications networks of the incumbent providers in Guernsey (i.e. CWG and JT is essential for the further development of fixed-line competition in the Channel Islands. Competitive access to the networks will stimulate greater competition in fixed-line services and provide consumers with more choice. This will lead to better pricing and innovation in the services offered. Increased competition in the retail market and wholesale access should, in time, remove the need for price controls on the incumbent's retail fixed-line services.

In November 2011, the Channel Islands Competition and Regulatory Authorities (**CICRA**) reported on the progress made by the Channel Islands Wholesale Access Project (**CIWAP**). In that paper CICRA explained the shortlisted options and sought views on which of these should be prioritised. Responses to that consultation informed the basis for the DD and IN to which this decision on WLR relates.

WLR allows other licensed telecommunications operators (**OLOs**) access to the incumbent fixed network to offer retail exchange line rental products to their customers, allowing them to provide a single bill that includes exchange line rental. Currently the incumbent operator maintains a direct commercial relationship with the customer for line rental as the only provider of the service. This is the case even if the customer uses a competitor for calls or broadband services. This gives the incumbent several potential advantages, including the obligatory continuation of a commercial relationship with all customers who take fixed-line services, and the ability to bundle products in a way competitors cannot. It can be argued that needing more than one bill is less efficient, inconvenient for customers and deters

[1] CICRA (the Channel Islands Competition and Regulatory Authorities) comprises the JCRA and GCRA.

them from switching services. This stifles some of the opportunities for competition, and the innovation and development of services for customers. WLR is intended to allow one approach to wholesale access to remove such obstacles to competition.

WLR is also one of the simplest options to introduce of those shortlisted in the November 2011 consultation, and the timescale for introduction is relatively short and the cost of implementation is relatively low. Feedback from operators at the time of CIWAP indicated that WLR could be launched in six to nine months from the commencement of the project, should it be confined to a single line service. The majority of OLOs and operators were keen to see WLR implemented as quickly as possible in order to compete in the market with single provider solutions. While operators appear to agree that in the long term, naked DSL with Bitstream and the availability of fixed number portability offers the most opportunities to develop retail products for customers, single line WLR provides the most immediate opportunities for competition and should therefore be the highest priority at this stage.

After consideration of the issues and a high-level cost benefit analysis (**CBA**), the GCRA concludes that there is a substantial benefit to competition and to customers as a whole from the introduction of WLR. As such, the GCRA has issued this Final Decision to modify the licence of CWG by creating an obligation on it to make available to other operators a WLR product for its fixed-line telephony network no later than 7 November 2013.

## 2. Structure of the Decision

The decision is structured as follows:

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| Section 3 | sets out the legal and licensing basis for this decision; |
| Section 4 | lists the respondents to the draft decision and summarises the key points in the responses; |
| Section 5 | sets out GCRA's consideration of these responses and the rationale behind its Final Decision; |
| Section 6 | sets down the Final Decision; |
| Section 7 | considers the next steps; |
| Annex A | sets out legal considerations; |
| Annex B | reports on processes, including (B2) the process flow diagram; and |
| Annex C | contains the text of the licence modification for CWG. |

## 3. Legislation and Licensing

The general legislative background is provided by *The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001*.

The sector-specific legislative framework is provided by *The Telecommunications (Bailiwick of Guernsey) Law 2001*, (**the Law**) together with the telecommunications licences of the licensees in Guernsey. In addition to specific legislation, there is scope for the States of Guernsey to give formal directions to the GCRA.

Condition 6 of CWG's licence provides for the modification of licence conditions:

"*The Authority may from time to time modify, revoke or add to any condition in this licence. Any modification, revocation or addition to the Conditions shall be made in accordance with Section 8 of the Telecommunications Law and any other requirements under any applicable law."*

Section 8 of the Law states that:

"*(1) Having regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions and the following provisions of this section, the Authority may modify a licence by amending or revoking any condition included in it or by adding any condition to it (including, subject to the provisions of section 9, any condition as to the application in relation to the licensee of the code).*

*(2) Before making modifications under this section to a licence, the Authority shall publish, and (in the case of an individual licence) give to the holder of the licence, notice -*

> *(a) stating the modifications which he proposes to make;*
>
> *(b) stating the reasons why he proposes to make those modifications; and*
>
> *(c) specifying the time (not being less than 7 days from the date of publication of the notice) within which written representations or objections in respect of the proposed modifications may be made by interested parties;*

*and he shall -*

> *(i) before making the modification, consider any representations or objections received from any interested party; and*
>
> *(ii) having followed the procedure set out in this subsection, modify the licence (and publish notice of the modification) or decide not to modify the licence (and publish notice of that decision).*

*(3) A modification to a licence shall take effect from such time as the Authority directs, not being earlier than the expiry of the period specified by the Authority in accordance with subsection (2)(c)."*

## 4. Consultation Responses

In November 2011, CICRA carried out a pan-Channel Island consultation on the development of wholesale access products (CICRA 01/11). The responses to that consultation helped CICRA to identify WLR as the first in a series of wholesale access products to be considered in more depth.

Although the IN for Jersey (CICRA 12/52) and DD for Guernsey (CICRA 12/53) were published as separate documents, many of the issues are common to Guernsey and Jersey. The incumbents in one island are also OLOs in the other island, and there is a great degree of overlap on the issues. Moreover, some responses were received in common to both consultations. Therefore in setting out and considering the consultation responses reference has been had to responses made on both the IN and DD.

Responses were received from:

- ACS Telecommunications Consultants (Jersey);
- Airtel (common response for Jersey and Guernsey);
- Cable and Wireless (common response for Jersey and Guernsey);
- JT (Jersey);
- Nitel (Jersey).

Copies of the responses are available on CICRA's website at www.cicra.gg or www.cicra.je.

**ACS Telecommunications Consultants**

ACS broadly welcomes the introduction of WLR and notes that one of the key advantages is the ability for new entrants to manage their customers through a single bill and simplify the management of customers. It notes that WLR has been available in other jurisdictions for many years and has been supplemented or superseded by other options such as LLU (local loop unbundling) or broadband-only products, and that to further open up competition, Fixed Number Portability (**FNP**) should also be introduced.

ACS comments that the absence of multiple-line WLR products will be detrimental to competition and limit the appeal of WLR. ACS notes that since the majority of the network and administration elements will be the same for both products it finds it difficult to understand the reasoning (for delay) that implementation of this product may be more complex to provision.

It also comments that Carrier Pre-Selection is a key element missing from the proposal and sees no reason why it should not be introduced on legacy System X switches (as it has been in the UK) or next generation IP-based switches. It notes a lack of clarity over the call products to be included and the bulk call usage discounts that would be expected and on the maintenance charges for inter-operator fault location.

On the proposed licence condition, ACS would prefer to see a broader amendment that would encompass other possible wholesale options such as broadband only and shared access over fibre.

**Airtel**

Airtel welcomes the decision to roll out WLR and would like to see ISDN (multiple-line) WLR services made available at the earliest opportunity.

**Cable & Wireless (CW)**

CWG and Cable and Wireless Jersey Limited submitted a joint response to the consultation for Jersey and Guernsey.

It urges CICRA to "do all it can to bring effective and efficient fixed-line competition to the Channel Islands".

The main point in CW's response is that the WLR product should be made available at the same time and the same price across both jurisdictions. CW is also disappointed that the regulator has not adopted a more proactive approach to shaping the WLR product.

CW takes the view that of the Wholesale Access Products being considered for progression under the CIWAP process, WLR offers the largest benefit to the consumer market across the islands because, unlike the naked DSL (Digital Subscriber Line)/bitstream products, it does not rely on the availability of FNP in order for operators to be able to compete effectively.

CW indicates that the setup costs of WLR are small and the on-going costs relatively low, and that an appropriate level for WLR would be £8.00 per calendar month (pcm) in each island, to compare with existing (retail) line rental rates of £9.75 in Guernsey and £12.75 in Jersey. It strongly expresses the view that it would be grossly unfair to support a different WLR pricing strategy in each island, or a higher level of WLR for JT which would, in its view, support inefficiently incurred costs.

CW goes on to note that it disagrees with the view in the DD and IN that licensees should be entitled to share the efficient costs of the provision of WLR services equally with each of the OLOs. It notes that this would not incentivise the incumbent operator to minimise costs, instead contending that these costs should be borne largely by the wholesale arm of the incumbent operator and form part of the monthly recurring charge. For other charges, such as rental of exchange facilities, CW proposes that these should be at the lower of the two operators' charges on a pan-Channel Island basis.

In respect of call charges, while the response goes into some detail on the processes and proposals, CW proposes that receipts for the termination of incoming calls remain with the network operator – and no charges would be payable to the OLOs for the conveyance of traffic to WLR subscribers. Outgoing calls should be charged at wholesale rates, based on existing RIO/RO (Reference Interconnect Offer and Reference Offer) rates with the WLR service provider, subject to adjustment to remove retail costs. CW suggests that these calls should be charged on a "retail minus" basis.

**JT**

JT supports the development of wholesale access products which are "fit for purpose and future proof" but that it is not in CI customers' interests to develop legacy products and that WLR is not the appropriate product to take forward.

JT comments that the timescales are too short to deliver WLR and is concerned that JCRA has disregarded JT's previous comments on the timescales required.

JT goes on to note the difficulty it has faced in engaging OLOs with the roll out of new fibre products; that one OLO will not connect with its fibre network and that another's preference for WLR over naked bitstream fibre services is an attempt to block JT's fibre roll out strategy.

It goes on to note that OLOs' requirements have altered over time and that its own discussions suggest there is a greater need for naked bitstream products than WLR. JT's number one priority is the Gigabit programme to provide 1 Gbit/s fibre connections to premises in Jersey which, it contends, is in the interests of all users in the island. JT considers that it would be efficient to offer WLR in conjunction with wholesale fibre broadband and that existing OLO (broadband) customers wishing to take a WLR service should do so with a migration to fibre. It also notes the complexity of changes required to its billing system in order to implement WLR and that it is "commonly understood" that out of scope elements included in an existing programme add to the time and cost.

**Nitel**

Nitel raised its concerns with the process and in particular the slow speed of progress in opening up competition and the lack of competitive wholesale products in the fixed-line market – since an initial direction from the JCRA in 2004. Nitel noted that in order to compete (in Jersey) on an equal footing they would need to see wholesale products offered at margin of 40% as in the UK and also highlighted issues of access to products and minimum order quantities, and a lack of clarity over access to wholesale calls.

Finally, in respect of the Licence condition, Nitel was disappointed that it was so narrow and believed that it should be broader to allow ISDN (multiple-line) WLR to be added later.

## 5. Rationale and Response

In reaching its decision to require CWG to implement WLR, the GCRA has taken into account the fact that WLR is already in place and available in many countries of various population sizes and GDP per capita. It has also taken careful account of the responses received to the DD.

**Draft Decision**

In the DD, the GCRA set out the rationale for treating WLR as a stand-alone product from other CIWAP proposals and the benefits arising from this decision. In particular, the increased competitive pressure in the market when customers have the choice to switch provider is beneficial to all customers, not only those that exercise the choice to switch. Incumbents have a strong incentive to respond to this competitive pressure in order to retain customers and maintain their position and reputation in the market, and OLOs and new entrants must continue to offer improved value and service in order to grow their business. This leads to improved efficiency and quality of service and reduced costs to the benefit of all customers, whether or not they choose to exercise the right to switch provider.

The GCRA noted that WLR is likely to contribute to the potential benefit of introducing other wholesale products in the future, including a naked DSL bitstream product. Introducing WLR will enable OLOs to offer bundled services and offer customers a single bill for all their services. This will improve their ability to compete against the incumbent and grow their market share. A higher market share enables an entrant more easily to market further services such as naked DSL bitstream, and to invest in order to enhance their own offering. If this kind of product were introduced later, having an existing commercial relationship with customers would be likely to reduce marketing and acquisition costs for selling new products, and offer opportunities for economies of scope in the range of services on offer.

The processes required for WLR are also relatively simple and well understood. Reliable cost estimates of around £30,000-£40,000 per annum (including set-up) in each island have been provided by CWG, which is low by any measure. In its response to the original (2011) consultation, JT estimated substantially higher costs, but neither the GCRA nor the JCRA were convinced that JT could justify the need for double the resources indicated by CW. JT did not supply any convincing evidence to support substantially more complex process requirements or any firm evidence of the additional costs involved. Given an annual cost of £30,000 to £40,000 for WLR to be introduced and operate in each island, this amounts to between £1.00 to £1.40 per Guernsey household per annum, of a current line rental currently standing at £117 p.a., with a slightly lower figure for Jersey of 70 to 90 pence per Jersey household.

On this basis the GCRA in the DD expressed confidence that WLR meets the requirements of the high level CBA presented in the DD, with typical costs an order of magnitude less than the typical level of benefits accruing to customers that are able to take up bundled service offers from operators elsewhere. In the Channel Islands there are already examples of bundling of (other) telecommunications services on offer to customers. For example, even without WLR and the benefit of an exclusive relationship with a customer, JT mobile customers in Guernsey can realise a £7 discount to the stand-alone (monthly) price of broadband, if they take both services. For products like "JT Complete" in Jersey, where the incumbent is able to benefit from an exclusive customer relationship, the discount can be substantially greater and coupled with additional benefits such as the removal of download limits on broadband services. Even so, these figures appear less than some of the bundling benefits available elsewhere where WLR has operated for some time. In the UK, for example, some internet service providers offer bundled services that discount the entire cost of the broadband service and offer it for free in conjunction with mobile or TV and fixed-line calling packages.

The GCRA noted in the DD that using JT's estimate of the annual costs, the cost per Jersey household for the provision of WLR would be around £2.40 per annum. While this seems high in relation to the overall cost of providing a (retail) exchange line, it is still less than the benefits accruing to many customers elsewhere from the availability of bundled services and offers in the market place.

Responses to the CIWAP consultation identified three potential wholesale billing arrangements for the WLR product, namely:

- **Option 1** - this option would provide for the likely requirements of an existing operator that already has systems in place for the management of call related services
- **Option 2** - this option would enable existing licensed operators to offer WLR where they do not have the systems in place to manage call-related services
- **Option 3, along with further add-on services** – this option would provide the wider services of an incumbent operator to new entrants (for example) who may wish to provide a white-labelled service.

Options 1 to 3 require a progressively greater level of involvement in the OLO's billing processes by the incumbent since the incumbent draws to an increasing extent on its own systems to provide WLR due to the absence or lower level of investment by a potential OLO in such processes.

Option 1 is likely to be the preference for OLOs currently providing their own call billing; Option 2 may be more applicable to existing OLOs that do not at present provide their own call billing but may choose to do so given the availability of WLR. Option 3 may be more relevant to future operators who would look to offer only a white-label service, relying to a larger extent on the incumbent's billing processes.

In the IN, the preferred option (option 1) required the introduction of WLR and agreement between the incumbents and OLOs on the appropriate pricing for wholesale call charges. It also recommended that option 2, which in addition included the provision of enhanced billing services to be offered to OLOs by the incumbents, be provided as soon as feasible thereafter. However, this would not be mandated by the 3 June deadline and would be subject to demand from the OLOs.

Finally, in the DD (and in the IN for JT (Jersey) the GCRA (and JCRA in Jersey) proposed the introduction of WLR for single line customers with effect from 3 June 2013.

**GCRA view of responses**

Four out of five respondents broadly welcome the proposed development of WLR and the expansion of competition in the wholesale market; albeit with reservations about the time it has taken and the extent to which it applies. The general tone of the responses was constructive and recognised that WLR is essentially a "billing" service, which can be applied equally well to fibre and copper networks and has been in place elsewhere for a number of years.

The GCRA recognises the concerns about timescales and implementation and have listened carefully to the operators and the OLOs on this issue and have regard to the discussions throughout the CIWAP process. GCRA believes that a six to nine month lead time from the DD and IN to finalise and implement WLR is adequate and reflects the time required by all parties to negotiate and implement the service. However, in recognising the operators' (and in particular, JT's) concerns, the JCRA has pushed back the implementation date from the 3 June proposed in the IN and DD to 7 November 2013, almost 12 months after the date of the JCRA's IN. Recognising CWG's concerns regarding the importance of introducing WLR to both the Jersey and Guernsey markets at the same time, the GCRA has also moved the implementation date for Guernsey to 7 November 2013.

The GCRA notes the clarification sought by JT and confirms that in order to simplify the requirements and minimise the necessary changes, it will not require CWG to offer a wholesale billing service for OLOs. As understood by JT in its response to the IN in Jersey, this would mean that only those OLOs which have an existing capability to bill customers directly for calls and line rental could offer WLR on day one – and that this is the minimum requirement set out by both the GCRA and JCRA for the implementation of WLR.

In respect of call charges, these may either be provided through the provision of a "carrier select"[2] service or by the offer of wholesale calls at appropriate rates by the

[2] Carrier Select allows customers to choose their service provider for calls by dialling a prefix, or using a small carrier select box plugged into the master socket. It allows customers to take advantage of lower rates and better deals offered by competitors to the incumbent phone operator (this facility is available from JT in Guernsey and CW in Jersey).

incumbent operator. It should be noted that there was a clear expectation from all parties involved in the CIWAP process that wholesale calls would be included as part of the WLR product, as evidenced by the document extracted in Annex B1 below. In the first instance we would expect the request for the service and appropriate pricing to be agreed between the operators. The GCRA would only intervene if such agreement was not possible. As a guide, the GCRA would expect the cost for such calls to be on a wholesale basis and therefore to exclude the network operator's retail costs. Existing rates applicable through RO/RIO[3] agreements should provide a sound basis for this and the operators will need to agree the appropriate discount to retail prices for wholesale call charges. Whether revenues for terminating calls on a WLR subscriber line should fall to the OLO or network operator will also need to be agreed. In the absence of agreement to the contrary, the GCRA would assume that such revenue remains with the network operator with appropriate consideration given in the pricing and other terms of wholesale access and that in this instance, a "retail minus" approach to pricing wholesale call charges would seem appropriate.

The GCRA notes JT's comments in respect of the roll out of its fibre to the home (FTTH) network. JT has in the past raised objections to WLR on the grounds that it considers WLR an "old" technology specific to copper networks. It would prefer to progress a "naked DSL"/"bitstream" product instead of WLR, and has expressed concerns that the OLOs' preference for WLR is an attempt to block the roll out of its own fibre access products.

WLR is largely a change to the billing arrangements irrespective of the underlying technology (whether copper or fibre). It is important that the benefits of competition through enhanced wholesale access are available to all customers. As such, the GCRA would not support the exclusion of customers from the process because of their location or the technology employed in delivering their fixed-line service.

Given the success of bundled offers generally in telecoms and, in particular, JT's own record in Jersey of seeking to bundle fixed line calls, mobile and broadband, the GCRA does not consider JT's objections reflect its own practice, and fully expects JT to offer bundled services as a result of WLR in Guernsey, because WLR will give it an improved ability to compete. Nor does the GCRA agree that WLR will allow OLOs to block the roll out of fibre access. However, the GCRA is concerned that any move to exclude customers from this opportunity on the basis of the technology used to provide their existing service could be perceived as an attempt to foreclose part of the market from competition.

As noted in the DD, the GCRA's overarching reservation with JT's response to the CIWAP consultation, and WLR in particular, is in its identification of investment in fibre access networks as limiting the resources it has available to develop wholesale

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In many jurisdictions a "carrier pre-select" facility is enabled – which allows this capability without the need for a prefix code or dialler box.

[3] Reference Offer (RO) and Reference Interconnect Offer (RIO)

access products. The JCRA's view is that the business interests of JT are not the same as the overall interests of telecoms users and consumers in Jersey or the Channel Islands as a whole, and that where the company would choose to dedicate its resources is not the only factor to take into consideration. While the GCRA notes JT's concerns regarding the engagement of OLOs in the negotiation process, competitors of JT have voiced similar concerns that it has failed to engage appropriately with them in the rollout of the fibre network and that its transparency could be improved.

The existence of a vibrant competitive environment is key to the health of the market and it is the GCRA's aim to facilitate the existence and development of such a market. The move to fibre-based networks will likely involve OLOs in significant investment and accepting an approach in either Guernsey or Jersey in which increased competition and wholesale access was allowed only through the fibre network would seriously restrict the extent of potential competition at the outset.

Finally, in respect of its billing system which is currently undergoing an upgrade, JT comments that it is commonly understood that out of scope elements add to the time and cost of the upgrade. However, the IN for WLR was issued in November 2012, and proposals for WLR were on the table for some time before that, giving JT ample opportunity to scope its project accordingly and avoid substantial additional costs. CW operates a similar billing system to JT, and will need to make similar changes to accommodate WLR but on a system that is already in place. It is likely that retrospective changes made to an existing system will be more expensive than changes made to a new system prior to installation. CWG has previously indicated that the cost would be minimal in terms of its impact on any CBA. In addition, the GCRA would expect that in the course of discussions between operators regarding implementation of WLR in coming months, CWG and JT will be able to take advantage of the fact that they now operate the same billing system, and may therefore share the burden of procuring or developing upgrades to allow for WLR.

## 6. Final Decision

**The GCRA has decided that the fixed telecommunications licence of Cable and Wireless Guernsey Limited will be modified to mandate the offer of WLR to Other Licensed Operators, as set out in Annex C.**

**WLR will be made available to all OLOs by 7 November 2013, with the pricing to be determined between CWG and OLOs. Should they be unable to agree, then the appropriate wholesale prices will be determined by the GCRA.**

In reaching this decision and considering the potential benefits of introducing WLR, the GCRA notes the availability of WLR worldwide, the ability it offers for other licensed operators and potential new entrants to offer services economically while building a customer base and the ability for service providers to bundle products and offer customers a single bill.

The ability to offer a single bill for the full range of telecommunications services appears to provide a significant benefit to customers and, the absence of significant bundling activity in the islands in fixed telecom services, other than by JT, is evident from our initial research. Where it does happen, the reduction in overall charges can be substantial and this is a significant opportunity that the GCRA believes should be extended to all operators and customers in the Channel Islands.

As stated in the DD, it also appears to the GCRA there are further benefits to competition in removing the obligatory relationship which currently exists between the incumbent and all fixed-line customers for line rental regardless of who they take their calls or broadband services from. As explained already in this and previous documents, this weakens the relationship of an entrant with its customers.

The GCRA also takes the view that the introduction of WLR prior to consideration of any CBA of a "naked DSL/bitstream" product, one of the other shortlisted access products from the CIWAP, will enable a sound basis on which to carry out future analysis, since better information and actual penetration figures following the introduction of WLR will be available at a later stage. The ability of other operators to compete in the market should also be improved as a result, and the extent to which the introduction of WLR will have improved the scale of their customer base will have implications for lowering their customer acquisition costs. WLR could also provide economies of scope and scale in marketing services, informing operators' options on how much to invest in naked DSL bitstream and fixed number portability in the future.

Given an annual cost of between £30,000 and £40,000 for each island, amounting to between £0.67 and £1.40 per household per annum in the Channel Islands, the GCRA concludes that the benefits from bundling alone, which WLR facilitates, exceed the costs of implementing the product on a high level CBA. Even if JT's higher cost estimates for Jersey households were adopted, which would increase the cost to around £2.40 per household, it is apparent that the overall benefits to customers would exceed the costs.

In the light of the responses received and the work previously carried out as part of the CIWAP and the DD (including CBA) the GCRA believes that WLR can be implemented in 6 months and the GCRA and JCRA have therefore set a common timescale to introduce WLR no later than 7 November 2013.

With regard to options for billing arrangements and extra services, the GCRA has decided that in the first instance, Option 1 should be made available by the deadline under this Final Decision. The GCRA takes the view that if there is sufficient demand from the OLOs, Option 2 should be made available as soon as feasible after the deadline, subject to agreement between the parties regarding the cost of any additional services that are to be provided.

The GCRA confirms its decision that the initial introduction of WLR will be for single lines only.

Operators will be entitled to share the efficient costs of the provision of the WLR service proportionately with each OLO that seeks WLR. The GCRA will intervene if CWG and its potential customers are unable to agree on a price or other terms of wholesale access.

The diagram in Annex B2 sets out the processes required for the provision of a WLR product. These processes have not been contentious and will therefore be adopted in the new licence conditions, under this Final Decision. The specific billing processes are, however, likely to depend on the precise requirements of operators. In terms of the processes, it appears to the GCRA that the retail processes are likely to involve a daily process, leading to the provision of a high-usage report and the availability of call detail records on a daily basis (or as appropriate and with agreement between the parties more frequently).

# 7. Next Steps

The modifications to CWG's fixed telecommunications licence are set out in Annex C A separate statutory invitation to comment under section 8 of the Law will be issued shortly. Subject to comments received in response to that invitation to comment, it is proposed that the modifications to CWG's fixed telecommunications licence will take effect on 6 June 2013.

Following this, the GCRA will consider the introduction of additional wholesale access through the remaining products short listed as part of CIWAP - FNP (fixed number portability) and naked DSL/bitstream services - in due course.

The GCRA will also examine the provision of WLR on multi-line (ISDN) services to extend the benefits of this option to business customers and OLOs serving this particular market. In particular the GCRA will look at the potential additional costs and complexity of the service compared with single line customers, and whether a separate cost assessment and CBA would be required.

However, the GCRA notes that there is no barrier to existing operators making such a product available without regulatory intervention and we would encourage bilateral and commercial agreement to offer these services where it is possible to do so.

# Annex A – Legal Considerations

## 1. Considerations under Section 2 of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001

The GCRA considers that the ability of other telecom operators to compete more aggressively in the fixed line telecommunications market by offering a fuller set of products protects the interests of consumers in respect of price charges, quality service levels, permanence and variety of utility services available to them. As with the assessment under Article 7 of the *Telecommunications (Jersey) Law* 2002, WLR in Guernsey is seen to meet an existing demand. The wider economic and social well-being of the Bailiwick is, in the view of the GCRA, improved in that increased competition in telecoms markets contributes to stable, low inflation, well regulated, competitive domestic markets and maintenance of a stable, competitive environment where infrastructure providers such as telecoms have business confidence and are faced with sufficient demand to continue to re-invest. Further competition is also likely to improve the quality of service that customers receive, given the improved choice and impetus this brings to the competitive process. WLR is a less intrusive form of access competition, and may be preferable to duplication of infrastructure on the island, which would lead to road closures and roadworks for islanders. Since WLR will be offered across the Bailiwick, it will benefit all residents.

## 2. Considerations under The Regulation of Utilities (States' Directions) (Bailiwick of Guernsey) Ordinance, 2012

Section 2 of *The Regulation of Utilities (States' Directions) Ordinance, 2012* requires the GCRA to follow the six principles for economic regulation set out in paragraph 5.11 of the report of the Commerce and Employment Department entitled "Review of Utility Regulation" and dated 8 July 2011 and to take them into account in the performance of its functions and powers.

The six principles of better regulation are: accountability, focus, predictability, coherence, adaptability and efficiency.

The GCRA has considered and fully taken into account the States of Guernsey Strategic Plan and the Fiscal and Economic Plan. These set out the need for stable, low inflation, well regulated, competitive domestic markets and maintenance of a stable, competitive environment where infrastructure providers such as telecoms have business confidence and are faced with sufficient demand to continue to re-invest. The GCRA therefore considers this final decision it is made within a framework and is fully consistent with the wider States Strategic Plan.

This final decision is focussed on a specific existing weakness in the competitive landscape of fixed-line telecoms services, an area where there is clear concern from customers around charges in this sector. An improvement in the ability of operators to compete against the incumbent is in the view of the GCRA critical to addressing these deficiencies and is focussed on a specific area of weakness, namely the exclusive ability of the incumbent to provide exchange line rental.

The wholesale access project has involved extensive consultation and regular discussions with all operators that have indicated an interest in developing further wholesale access for the market. This draft decision follows that process and the November 2011 consultation, which set out a short list of potential wholesale access candidates. WLR was identified as a potential access product in that consultation specifically and CICRA has held separate discussions with the incumbents in both islands to discuss issues around the introduction of WLR. The GCRA therefore considers this final decision is the next step following that process.

It is apparent that the States places a priority on improvements in the availability and cost of fixed line services and this final decision is consistent with that aim.

This final decision is intended as a first initiative in facilitating wholesale access. The development of more comprehensive wholesale access products will be considered after an assessment is made of the contribution of WLR to creating a more even competitive playing field. The approach taken is therefore flexible in that, as has been argued in the document, WLR offers benefits that may improve the cost-benefit equation of further access products in the future.

WLR offers the least intrusive means of achieving greater competition at the access level and is promoted on the basis that it offers a low-cost burden on operators to provide an access product that is likely to enable bundling by operators. The potential efficiencies in the provision of services are also likely to be realised through the offering of fixed line services in this way to customers.

# Annex B1 – WLR Product Description

As described under the CIWAP process, March 2011.

Note that at that stage, the WLR proposal included multi-line customers but not fibre products and has since been modified to exclude the former but include the latter.

## WLR Product description

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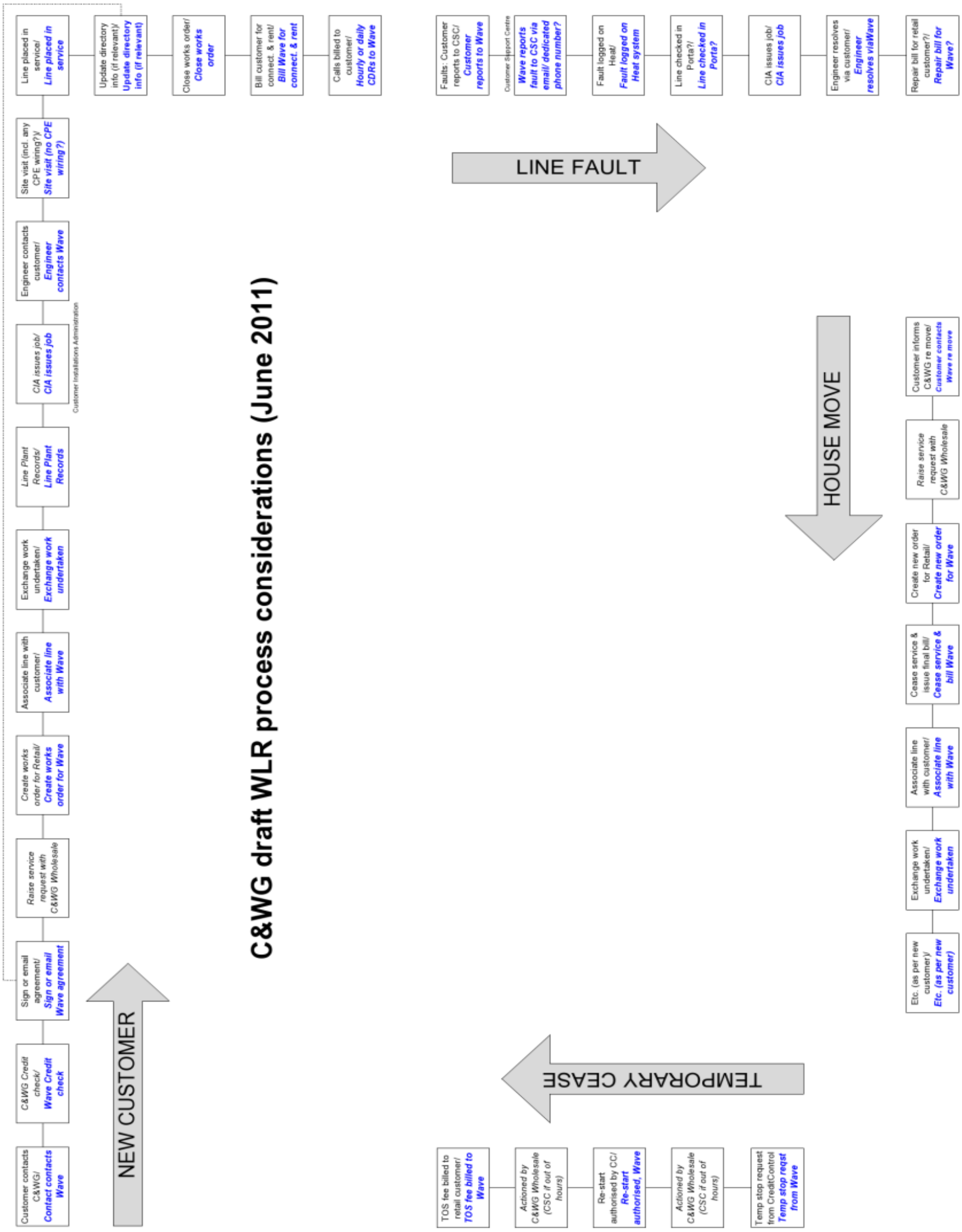
1. Wholesale Line Rental (WLR) is a PSTN voice Communications Provider (CP) product, which enables CPs to offer their own branded telephony service directly to their End Users using the incumbent network
2. The incumbent provides, repairs and maintains WLR lines, and provides a consolidated bill to the CPs for all of their services.
3. The CP sets their own prices and bills their end-users (single bill)
4. WLR contains wholesale calling and network features (some chargeable)
5. WLR includes an option for a CP to purchase wholesale call minutes
6. Pan CI Retail products supported
   - PSTN Residential single and multi-lines
   - ISDN 2, ISDN 30 (feature set change planned in Jersey in relation to NGN implementation)
   - Not supported on fibre access products as fibre technology is still in trial in Jersey and not available yet in Guernsey
7. Underlying service/products that need to be in place to support the product
   - a PSTN line connecting the customer to the network of the incumbent operator
8. Minimum term of 12 months applied to line rental

## Annex B2 – Process Map



## Annex C – Licence modifications

The modifications to CWG's fixed telecommunications licence will arise through the insertion of new Licence Conditions 25A.1, 25A.2 and 25A.3. The new licence conditions are as follows:

***25A WHOLESALE LINE RENTAL***

*25A.1*

*From the earliest reasonably practicable date after this Condition takes effect, and in any event no later than 7 November 2013, the Licensee shall make available a Wholesale Line Rental (WLR) service for single lines on its Licensed Telecommunications Network to Other Licensed Operators. The WLR service shall be provided in conformance with the processes set out in Annex B2 of the Final Notice published as CICRA 13/21.*

*The Licensee must ensure that, upon reasonable notice from the GCRA, representatives of the Licensee attend meetings with the GCRA and/or its representatives (which meetings may include representatives of Other Licensed Operators), to discuss the implementation or operation of WLR.*

*The Licensee shall be entitled to share the efficient costs of the provision of the WLR service proportionately with each Other Licensed Operator that seeks a WLR service. Where a dispute arises in respect of WLR charges or other terms and conditions, the GCRA may set the maximum prices and any relevant non-price terms and conditions for the provision of the WLR service by the Licensee.*

*25A.2*

*For the purposes of this Condition 25A, Wholesale Line Rental or WLR shall be defined as a service provided by the Licensee to Other Licensed Operators which enables them to offer exchange line rental and calls over the Licensed Telecommunications Network, such that a User is no longer obliged to hold a contractual relationship with the Licensee and is instead billed by the Other Licensed Operator for exchange line rental and/or calls.*

*25A.3*

*Where access to information regarding WLR, whether regarding prices, non-price terms or other matters, is made available by the Licensee to Other Licensed Operators, the Licensee shall also be obliged to provide such information to prospective Licensed Operators upon request.*