

Please quote: our ref LEG 417

5<sup>th</sup> December 2014

The Chief Executive Officer  
Melita Plc  
Mriehel By Pass  
Mriehel BKR 3000

Sir,

**Re: Decision following letter of warning dated 14<sup>th</sup> November 2014 relating to non-compliance with termination procedure requirements**

Reference is made to the Letter of warning dated 14<sup>th</sup> November 2014 addressed to Melita plc (hereafter 'Melita') and to the various communications between the Malta Communications Authority (MCA) and Melita, including Melita's response dated 25<sup>th</sup> November 2014 following the aforesaid letter of warning, and to the previous regulatory decision dated 17<sup>th</sup> July 2014 relating to the same subject-matter.

The MCA notes that in October 2013 following the receipt of various complaints against Melita, it made a number of proposals to Melita with respect to Melita's then existing procedure for termination of services in order to address the issues which arose as a result of those complaints. This notwithstanding the MCA received further complaints against Melita relating to non-compliance with the applicable norms regulating termination of service. Subsequently on the 13<sup>th</sup> July 2014 regulatory action was taken against Melita and a fine of €1,000 was imposed following a complaint wherefrom it resulted that Melita had failed to terminate the service as requested by the subscriber in accordance with the applicable provisions at law.

Regrettably despite the imposition of the above-mentioned fine, the MCA has continued to receive similar complaints from Melita subscribers [with particular reference to the period July to September 2014]. In five (5) of the complaints received by the MCA, it results that notwithstanding that these subscribers had followed Melita's procedure for the termination of service, they either:

- i. did not have the service/s duly terminated following the expiry of the advance notice period; and/or,
- ii. continued to receive invoices charging them for services beyond the thirty (30) day advance notice period.

The MCA notes that in these cases it was only after it brought these complaints to the attention of Melita, and then only after several days following the lapse of the 30 day advance notice, that Melita took the necessary steps to rectify matters and deal with the requests made, adjusting the bills of the subscribers where applicable. The MCA notes that despite Melita's reassurances as stated in its letter dated 25<sup>th</sup> October 2013 to the MCA, whereby Melita stated that it does not charge beyond the end of the notice period, some subscribers continued to receive invoices charging them for services beyond the thirty (30) day advance notice period.

Given these circumstances the MCA issued a letter of warning dated 14<sup>th</sup> November 2014 to Melita informing Melita that it was in breach of its obligations at law and that an administrative fine of €10,000 may be imposed.

Melita in its response to the aforesaid letter of warning stated that during the period of July to September 2014 it undertook an overhaul of its IT system which according to Melita is at the core of its customer service management. Melita in this regard makes the argument that "the transition was not as error-free as one would have desired"<sup>1</sup>. Melita also remarked that it was aware of the difficulties and that action was "immediately taken to rectify the situation, to ensure that all subscribers are satisfied" and that it collaborated with the MCA. Melita contends that it therefore did not breach the law and that no administrative fines should be imposed. It also queried the amount of €10,000 being the proposed sanction of the MCA.

The MCA considers that the fact that Melita undertook changes to its IT system as referred to above and that it collaborated with the MCA during the investigation of the complaints, does not in any way justify - with reference to the complaints received by MCA and referred to Melita in the MCA's letter of warning - Melita's failure to terminate the services provided to its subscribers in line with their request. The MCA notes in this regard that it had already in previous months asked Melita to put a stop to the continuation of such complaints. An administrative fine of €1,000 was imposed last July on a similar complaint and yet despite such a measure the MCA in subsequent weeks continued to receive similar complaints. The MCA does not exclude there may have been other instances which were not however reported to the MCA.

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<sup>1</sup> See Melita's response dated 25<sup>th</sup> November 2014, 2<sup>nd</sup> paragraph page 1 thereof.


The MCA considers that in the circumstances a more substantial fine is warranted given the increase of complaints registered in the hope that such regulatory measures – and the possibility of further stronger measures - will finally persuade Melita to put its house in order. The MCA considers that it is duty bound in accordance with its remit at law to take whatever measures it considers necessary to ensure that regulated operators such as Melita comply with their legal obligations vis-à-vis their clients.

The MCA considers that in some of the above mentioned cases Melita acted contrary to the applicable norms including regulation 38(1) of SL 399.28 of the Laws of Malta which requires service providers such as Melita to ensure that bills issued represent and do not exceed the true extent of any service/s actually provided to the subscriber. The MCA in these instances considers that Melita by issuing bills for periods for which the subscribers had expressly requested Melita not to continue to provide further services, acted in breach of the aforesaid provision. The MCA further considers that on the basis of the above Melita acted contrary to the applicable provisions – including also the requirement under regulation 36(1) of the Regulations which provides that subscribers have the right at any time to terminate their contract through simple means subject to prior notice not exceeding one month and to any applicable termination charges.

In these circumstances, including the fact that the MCA had already previously sanctioned Melita about a similar instance of non-compliance, the MCA is imposing a one-off administrative fine of ten thousand euro (€10,000) as it considers that Melita acted in breach of the applicable requirements at law referred to above.

Without prejudice to the above the MCA is also warning Melita that should in future other instances of non-compliance result with regard to the subject matter in question, then the MCA will consider imposing further sanctions including higher fines [not excluding dissuasive daily administrative fines] until Melita effectively addresses such instances of non-compliance as may result to the MCA to the satisfaction of the MCA.

Yours,



Paul Edgar Micallef  
Chief Legal Adviser

cc. Dr. Gertrude Borg Micallef – Senior Legal Adviser – Legal & Regulatory Affairs Office – Melita plc