

MCA End-User Half Yearly Report

January – June 2012

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1. Background

One of the main objectives of the Malta Communications Authority ('MCA') is to ensure a high level of protection for end-users of electronic communications ('ECS'), postal and e-Commerce services.

As part of its function to ensure that the interests of consumers are safeguarded, the MCA monitors the sectors it regulates to identify areas of end-user concern and undertakes the necessary regulatory action required to address such issues.

The MCA is also responsible to ensure that service providers comply with their obligations at law and that end-users are provided with up to date information on their rights and obligations when using any communication services.

In addition to the above, we also provide assistance to those end-users who encounter difficulties while using any of the services regulated by MCA. In particular, if the end-user is not satisfied with the remedy provided by his operator, the end-user may lodge his complaint with the MCA. The extent of the action the MCA can take in relation to a complaint, depends on the particulars of the complaint and the MCA's relevant legal powers. In instances where the MCA cannot formally intervene, the MCA may try to mediate between the complainant and the service provider. Failing that, the MCA will suggest alternative courses of action by referring the complainant to the appropriate forum where he may lodge his complaint.

The MCA also receives a number of enquiries from end-users in relation to the services it regulates. The MCA is committed to provide end-users with the requested information in a timely manner. Alternatively, when such requests do not fall directly within MCA's remit, the MCA assists end-users by directing them to the appropriate body.

2. Scope

This report provides an analysis of the complaints and enquires received by the MCA in the first half of 2012 and also focuses on enforcement actions and related monitoring activities undertaken by the MCA during this period.

The MCA considers that the publication of this information raises awareness on consumer tools and rights in the sectors regulated by the MCA while also highlighting those practices which are creating difficulties for end-users and which will be closely monitored by the MCA. The MCA also strongly believes that this data may be of interest to intermediaries such as consumer groups and journalists who seek to advise and inform end-users about their rights.

3. Complaints and Enquiries by Sector and Issue

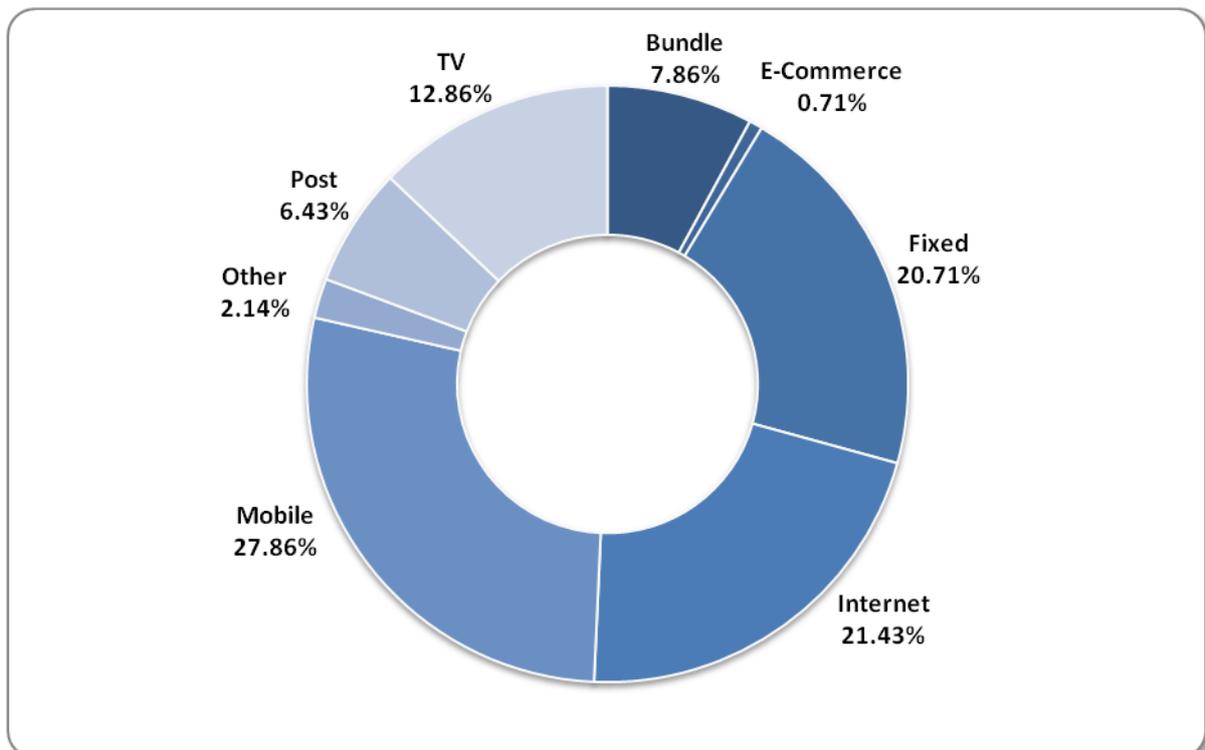
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In the first half of 2012, the MCA received a total of 140 complaints and 157 enquiries. The following provides an overview of the nature of complaints and enquiries received.

A complete breakdown of complaints received by operators can be accessed in the 'Consumer Section' in MCA's website or by clicking [here](#).

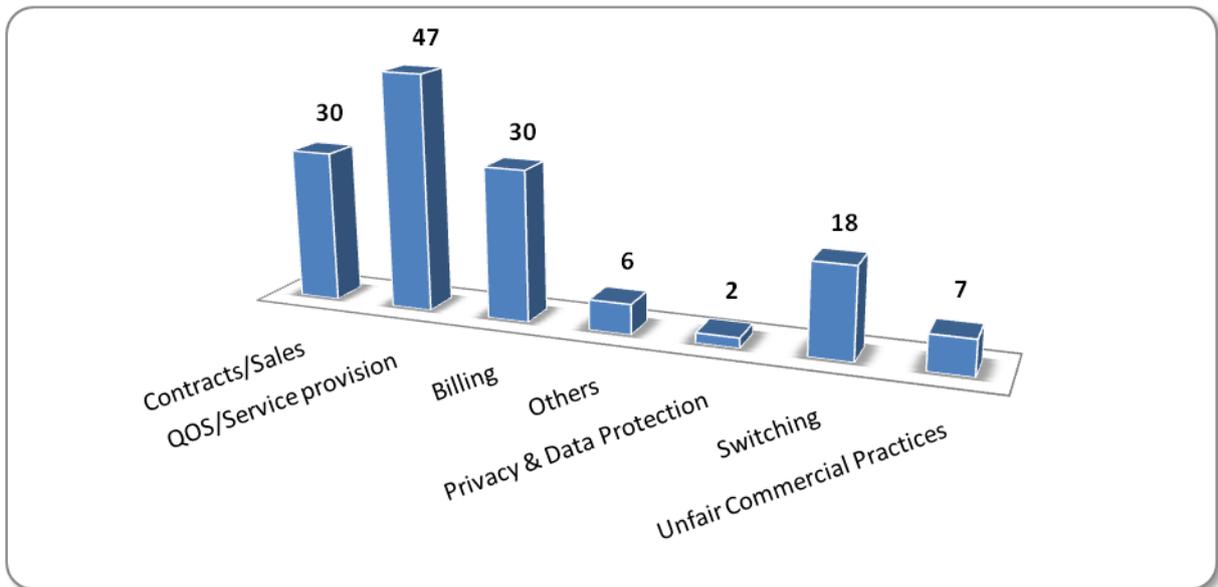
Complaints by Sector

The below diagram provides statistical information on the percentage of complaints segmented by sector dealt with by the Authority.



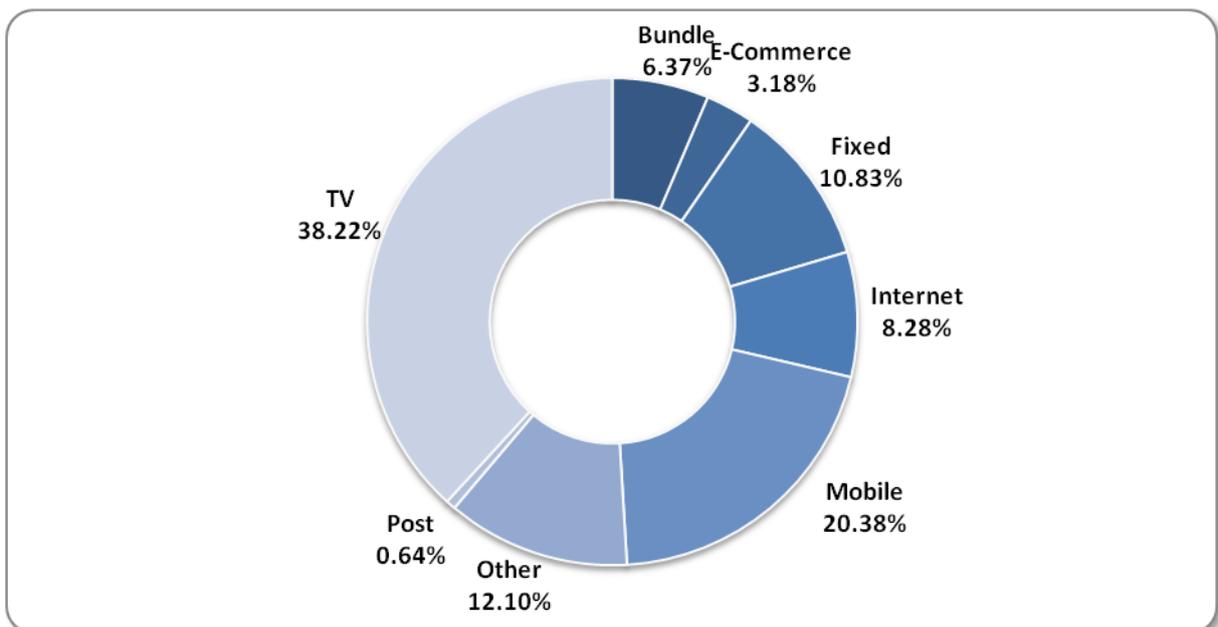
Number of Complaints by Issue

The below diagram provides statistical information on the number of complaints segmented by issue dealt with by the Authority.



Enquiries by Sector

The below diagram provides statistical information on the percentage of enquiries received by the Authority segmented by sector.



4. Information on Complaints received

4.1. Electronic Communications Services

The most prominent issues raised during the first half of 2012, relate to complaints regarding contractual issues, billing and service provision.

The trend of complaints registered during the end of 2011 in relation to GO and Melita's **proposed changes to the terms and conditions** of their respective subscribers, continued during the first half of 2012. In such instances, service providers are required to notify impacted subscribers at least thirty (30) days prior to the implementation of such changes, providing subscribers with the option to decline the proposals without incurring any penalty fees. The Authority notes that this procedure was adhered to in both instances.

Other major issues reported to the MCA relate to issues of a contractual nature. The most common complaints in this regard related to the charging of **early termination fees 'ETF'** which are applicable when contracts are terminated prior to their expiry. In this respect, the MCA continues to stress on the importance that subscribers carefully read the terms and conditions governing the service/s in question prior to subscribing. To this effect, by means of the new amendments to the legislation regulating ECS, end-users are being afforded the right to request a hard copy of the terms and conditions, free of charge, from the service provider's outlet, prior to subscribing to a service/s. Alternatively, end-users may also review these terms and conditions from the service provider's website. On the other hand, the MCA also received justified complaints, whereby subscribers were asked to pay early termination fees after that the initial period of the contract expired. In this respect, it is important to note that:

- 1. The initial contractual commitment period cannot exceed twenty-four months; and**
- 2. No early termination fees can apply with respect to contracts that have been renewed after an initial contract period expired.**

Other issues which were commonly raised related to switching and termination procedures. In line with the requirements emanating from the legislation regulating ECS, service providers' contracts must include the **termination procedure** that subscribers should follow to terminate a service/s. The Authority intervened in those few cases where the procedure of termination of services was not adhered to by the operator to ensure that the service/s was/were successfully terminated. In other instances, the Authority guided end-users accordingly to the termination procedure provided by their respective service providers. The Authority once again, stresses on the importance that subscribers refer to their contracts to access this information. In the event that the subscriber is

not in possession of his contract, subscribers are encouraged to request this information from their service provider.

Other complaints received in relation to termination and switching, included complaints on email mobility services as well as mobile and fixed number portability. With regard to **email mobility services**, as from May 2011, service providers are required to provide subscribers with email mobility services. This service gives subscribers the opportunity to request, upon termination of an internet service, the forwarding of any electronic mail received on the original e-mail address to the new e-mail address, free of charge, for a period of one (1) year. In this respect, the MCA received a few complaints with regard to the provision of such service. The MCA closely monitored the situations related to email mobility and porting complaints until these issues were resolved.

Mobile internet is growing increasingly popular in Malta. Latest figures show an increase of approximately 55% in the number of mobile internet subscribers between Quarter 4 of 2010 and Quarter 4 of 2011. This increase in the market has also resulted in a slight increase in the number of complaints regarding **mobile data** and associated 'bill shocks', received by the Authority during the first half of 2012.

In this respect, in order to protect subscribers from 'bill shocks', the European Commission has, for the first time, introduced caps on EU data roaming tariffs for those subscribers using mobile internet services whilst abroad. Under the new rules, accessing the Internet while abroad in an EU country will cost no more than €0.70c (70 cents) per megabyte. These charges, which are all exclusive of VAT or any other applicable taxes will progressively go down so that by 1st July 2014 consumers roaming in an EU county will be paying no more than €0.20c (20 cents) per megabyte (excluding VAT or any other applicable taxes).

This regulation also specifies that subscribers are informed about roaming charges when they travel abroad. Furthermore, subscribers travelling within the EU are to receive a text message, when they reach 80% of the data roaming limit which by default (and unless otherwise agreed to with the subscriber) is set at €50/month excluding VAT and applicable taxes. Subscribers will eventually be cut-off as soon as they reach the said data limit and they may re-activate the service upon request should they wish to continue to use data services in that particular month. This does not mean that mobile service providers may not offer other data roaming packages with no limits and with different (higher or lower) data rates as specified above. Such packages and offers may only be offered to subscribers on an opt-in basis, that is, if the subscriber so requests. In view of complaints received in this respect, the Authority warns subscribers to take informed decisions prior to opting-in to such offers.

On the other hand, the Authority also received complaints from subscribers who did not have roaming services when abroad. The reasons for such complaints could be that either the respective mobile package of the subscriber does not allow international roaming in the destination country, or the service provider does not have roaming agreements with mobile service providers of the roaming destination country, or the roaming partner of the local operator does not have

reception coverage in particular areas of the country of destination. For these reasons, before travelling abroad, or prior to subscribing to a package, it is very important that subscribers contact their mobile service provider to enquire on the above.

The issue regarding **telephony and internet packages marketed as 'unlimited'** (despite having an applicable usage limit and/or threshold) remains a priority. The MCA is of the view that such limitations, contrast with the term 'unlimited'. In this respect, very recently, the MCAA issued a [decision](#) against GO Plc, Mobisle Communications Limited, Melita Plc, Melita Mobile Limited and Vodafone Malta Limited after determining that such packages are in breach of the Consumer Affairs Act¹. In addition to the above, the MCA considers that any applicable usage limits and thresholds, have to be clearly specified in subscribers' contracts in line with the applicable laws regulated by MCA.

From time to time, the Authority receives claims regarding mobile and fixed telephone charges for **calls to premium telephone numbers**. Calls to premium rate numbers are used to offer value added services to the subscriber. The price paid by the subscriber for a call towards premium rate numbers is usually higher than the price of a conventional call to a fixed or mobile line. In Malta, the current premium rate numbers used by the service providers are those starting with the following digits: '50XX XXXX', '51XX XXXX', and '52XX XXXX' range. Unlike a conventional call towards a fixed or mobile line, the charge for a call towards a premium rate number consists of the conventional fixed call conveyance charge and an additional service charge. Most of the service charge is distributed to the premium rate service provider, thus enabling the business or organisation offering such premium rate services to be funded directly via the calls. It is to be noted that the premium rate service provider offering such services, must ensure that whenever reference is made to the premium rate number in any advertisement or other form of publicity, the applicable tariff charge must always be specified in a way that can be clearly read, viewed or heard by the subscriber. The MCA encourages end-users to confirm with their telephony operator the applicable premium rate tariff charges prior to calling such premium rate numbers.

The Authority has also registered some complaints on **indoor mobile reception**. The MCA's view on this matter is that when subscribers experience significant reception problems from their place of work or from their residence, if the service provider is unable to resolve the problem, subscribers should be provided the possibility to exit their contract and port the mobile number without incurring early termination penalties. The MCA is glad to note that in such circumstances service providers took appropriate action in response to such complaints.

In the previous months, the electronic communications sector witnessed the launch and upgrade of packages with increased speeds for the provision of internet services. Latest statistics show that more subscribers are opting for higher speeds than those they were previously subscribed to.

¹ CAP .378 of the Laws of Malta

In the current scenario, **broadband speeds** are normally sold and marketed on an “up-to” basis. This issue, amongst other matters, is being addressed by the Authority by means of a [consultation paper](#) and subsequently a decision, which is intended to clarify how internet service providers ‘ISPs’ are required to quantify the expected performance of the broadband connection.

Notwithstanding the above, the reasons that could lead to poor internet speeds may vary depending on the following factors:

- a) The connection between your ISPs modem and the computer accessing the internet;
- b) The capabilities of the computer and its state of maintenance – eg viruses etc;
- c) The number of users using the internet at the same time in a particular area;
- d) The capabilities of the server which you are accessing. This includes the type of connection which the same server uses to connect to the Internet; and
- e) Provided that data delivered over the Internet likely requires the collaboration between a number of networks which belong to different parties, the more network providers that are involved in the delivery of the data, the higher are the chances that slower throughput speeds are reached.

The Authority notes that with regard to complaints lodged with MCA, when poor internet connection problems were directly attributable to the service provider’s infrastructure, these were addressed satisfactorily.

The MCA also received a few complaints relating to **cold calls with possible fraudulent purposes**. Complainants contacting us reported that callers were informing individuals that their computer might be at risk and as a consequence were asking them for personal credit card details. Recent media publications on the matter, reported that the Police are investigating alleged scam phone calls. In the meantime, the Police alerted people not to provide information or make payments to unknown individuals who offered a service they had not subscribed to.

4.2. Postal

With regard to the Postal sector, the most common issues raised related to claims regarding **late and/or undelivered regular mail**. Although in these cases the necessary evidence could not be gathered to enable a conclusive decision by the Authority, the MCA closely monitored the situations and ensured that MaltaPost provided the necessary redress to the end-user were possible.

Another complaint received related to the inability to delivery **bulky letter packets** due to the restricted dimensions of the addressees’ letterbox. The MCA strongly recommends that letterboxes conform with the European standard dimensions as indicated below:



Other claims received related to the **collection of registered mail** following unsuccessful delivery. In this respect, MaltaPost's procedure for the 'Collection and/or Delivery by Courier of Registered Postal Articles' specifies that when delivery of a registered postal article is unsuccessful, addressees have the option to either collect their article from any MaltaPost branch in Malta and Gozo. Alternatively, addressees may have their registered postal article delivered by courier at an additional charge at any given address indicated by them, even if this address is different from the address of the registered postal article at the prevailing price indicated on the attempted delivery notice. End-users are encouraged to access MaltaPost's ['Registered Postal Articles' scheme](#) for further information. In addition, end-users may also access [MCA's Postal Guides](#) for further information on their rights and obligations in the Postal sector.

5. Information on Enquiries Received

5.1. Electronic Communication Services

The MCA handles a large number of enquiries related to all the sectors it regulates. Most commonly, the MCA either provides the relevant information or directs the end-users to the appropriate body for their query to be addressed.

The main type of enquiries received during the first half of 2012 related to the **digital switchover**. On the 31st of October 2011, analogue TV transmissions were switched off and as from the 1st of November 2011, Maltese TV stations started transmitting only in digital. The digital

switchover (which only affected those end-users who are not subscribed to any service provider and who watch free-to-air Maltese TV using the conventional aerial), now guarantees the digital terrestrial transmission of six Maltese digital TV channels free-to-air. These channels are TVM, TVM 2, Favourite Channel, Net TV, One TV, Smash TV. The Authority provided assistance to those customers who enquired on the set-up required to view the above cited six Maltese channels.

The Authority also received a number of enquiries (from end-users not subscribed to a service provider) regarding foreign free to air channels not reaching their households in Malta. Whilst the Authority is aware that a number of Maltese viewers enjoy free to air TV transmissions that reach Malta due to the power and direction of the said transmissions, (what is known as 'spill over') Maltese Authorities have no jurisdiction whatsoever over these transmissions and cannot provide redress to end-users on such matters.

Another common source of enquiry related to the applicability of **time-windows** in the fixed and mobile telephony sectors. In this respect, the MCA would like to clarify that mobile and fixed telephony time-windows have not been abolished. Nevertheless, further to the entry of an additional player in the mobile telephony market in 2009, time-windows have been extended considerably in the mobile telephony sector. The current applicability of time-windows, is not in breach of any of the laws enforced by the MCA and therefore the MCA does not have a remit at law to directly intervene in such instances. It is important to note that time-windows vary from one service provider to another.

5.2. e-Commerce

During this period, a number of enquiries regarding e-Commerce were addressed to the MCA, specifically from traders asking whether a special licence is required to conduct online trading. Although no special licence is required for online selling, anybody trading online still requires the same licence / authorisation that is necessary for a 'brick and mortar' business. Further information on for online traders is available on the following link:

[eCommerce Guides for Business](#)

6. Projects Undertaken

The MCA regularly undertakes specific measures to ensure further consumer protection in the sectors it regulates.

Following a consultation process which was initiated in February 2012, the MCA has issued a [decision on the provision of contracts to subscribers](#) of fixed and mobile telephony services, Internet and TV distribution services. The decision addresses how agreements between service providers and end-users should be concluded as well as what information should be included in the final contract.

MCA's decision specifies, amongst other requirements, that:

1. All contracts are available on the service providers' website and in all retail outlets;
2. Copies of these contracts are to be made available in hard copy format, free of charge, upon request by prospective subscribers;
3. When concluding a contract, (whether this is done in a physical or in an electronic format), the subscribers' acceptance must be manifest and the contract must include all the clauses constituting the terms and conditions;
4. The duration of the contract, as well as any applicable early termination fees, are prominently visible;
5. Contracts must provide all details pertaining to prices, charges and tariffs.

A copy of this decision can be downloaded from the MCA's website at www.mca.org.mt.

On a separate initiative, between May and July this year, the MCA embarked on an online campaign, via electronic banners and social media sites, to promote the new roaming rates applicable as from 1st July 2012. In this respect, under the new rules, charges for calls made while travelling in other EU countries cannot exceed €0.29c (29 cents) per minute and calls received should cost no more than €0.08c (8 cents) per minute. Sending a text message while abroad has a ceiling charge of €0.09c (9 cents) per SMS whilst accessing the Internet will cost no more than €0.70 (70 cents) per megabyte. These charges are all exclusive of VAT or any other applicable taxes. Mobile operators will be obliged to actively offer the new "Euro Tariff" prices to all their subscribers unless the subscriber opts to join a different data-roaming package with no limits and with different (higher or lower) data rates as specified above.

The "Euro Tariff" caps (maximum tariffs) will continue to be reduced gradually, year-on-year until 2014, as indicated in the following table.

Tariffs	Current	July 2012	July 2013	July 2014
Data (per MB)	-	70	45	20
Voice-calls made (per minute)	35	29	24	19
Voice-calls received (per minute)	11	8	7	5
SMS (per SMS)	11	9	8	6
NOTE: all costs are indicated in Euro cents, excluding VAT and any other applicable taxes and charges.				

Further information on any of the above topics may be found on MCA's website by accessing the consumer corner at <http://www.mca.org.mt/consumers>. This website is regularly updated to include the latest information on end-user rights in the sectors regulated by MCA.