



## **CONSUMER BI-ANNUAL REPORT**

**January – June 2013**

Report

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## 1.0 INTRODUCTION

One of the main objectives of the Malta Communications Authority (“MCA”) is to ensure a high level of protection for end-users in the electronic communications (“ECS”), postal and e-commerce sectors.

As part of its function to safeguard the interests of consumers, the MCA monitors the sectors it regulates to identify areas of end-user concern and undertakes the necessary regulatory action 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 service provider, 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 we cannot formally intervene, we try to mediate between the complainant and the service provider. Failing that, we will suggest alternative courses of action by referring the complainant to the appropriate forum where he/she may lodge his/her complaint.

We also receive a number of enquiries from end-users in relation to the services we regulate. We make every effort to provide end-users with the requested information in a timely manner. Alternatively, when such requests do not fall directly within MCA's remit, we assist end-users by directing them to the appropriate body.

More information on MCA's complaint and enquiry procedure is available [here](#).

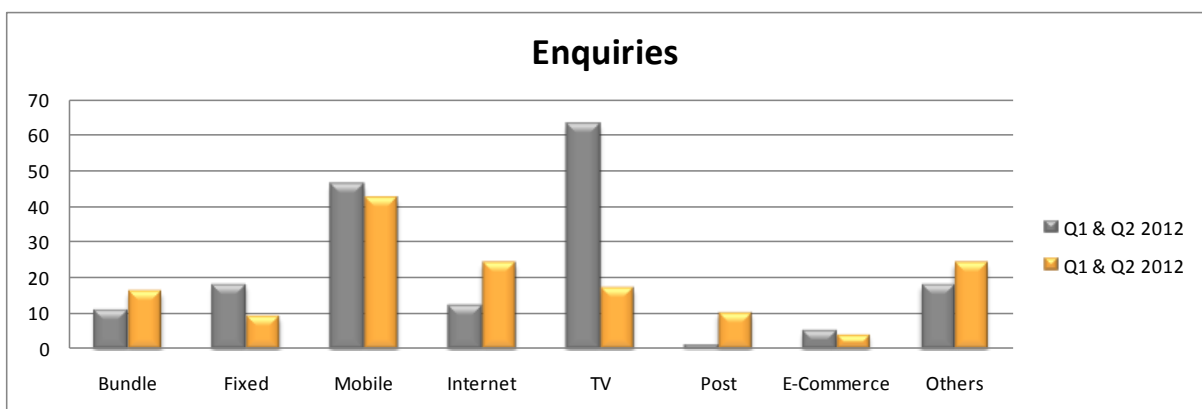
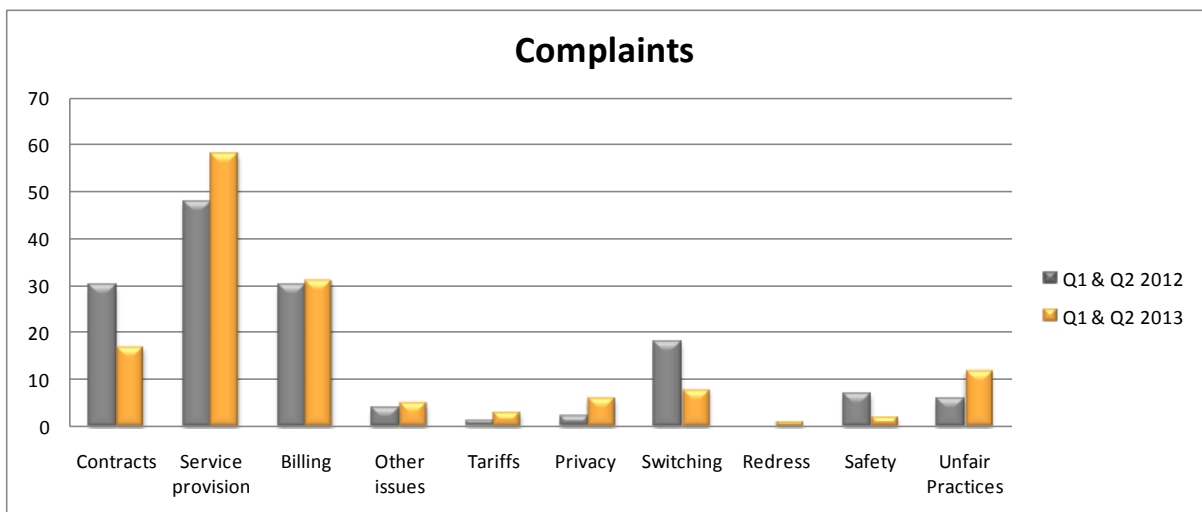
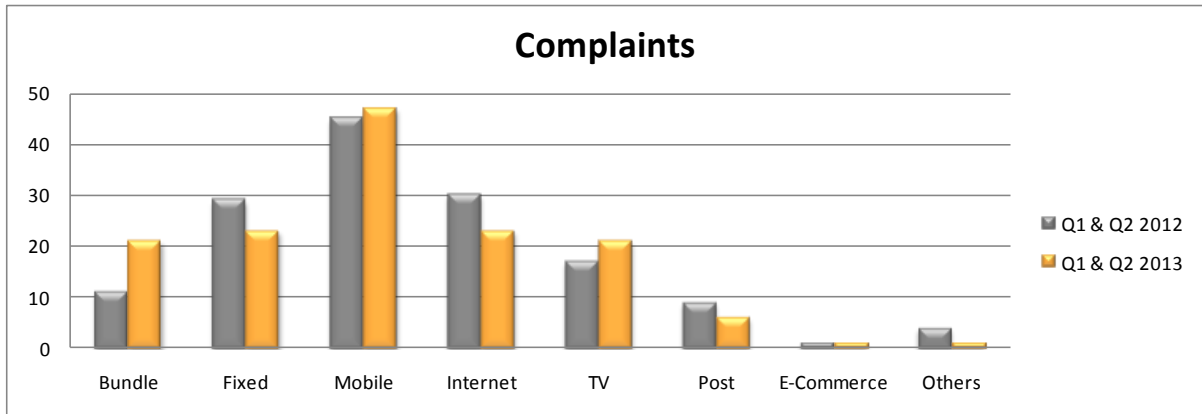
## 2.0 PURPOSE

In the first half of 2013, the MCA received a total of 143 complaints and 146 enquiries. This report provides an analysis of these complaints and enquiries and also provides information 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 may be 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.

### 3.0 STATISTICS

The following tables provide statistical information on the complaints and enquiries (segmented by sector and issue) received by the MCA in the first half of 2013 compared to the same period in 2012.



## 4.0 ELECTRONIC COMMUNICATIONS SERVICES

The claims<sup>1</sup> raised during the first half of 2013, relate predominantly to complaints regarding the provision of service, termination of service and non-payment of bills.

### **Disclaimer**

*The complaints filed at the Authority are either classified as:*

- i. *“justified” (Claims where the Authority had sufficient evidence available at hand for further investigation or remedial action to be taken); or*
- ii. *“others” (Claims where no grounds on which to proceed with investigation or take action were identified).*

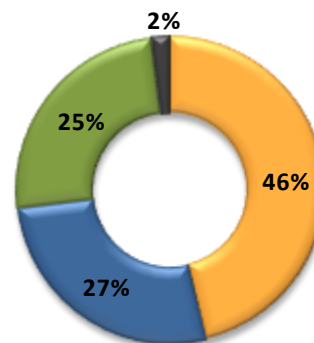
*The tables provided in this section of the document are segmented by service provider and include both sets of complaints referred to above.*

### 4.1 PROVISION AND QUALITY OF SERVICE

*During the first half of 2013, the MCA received a number of claims regarding repair of intermittent and temporary faults and the transmission of foreign free to air channels. It also received a small number of complaints related to quality of indoor mobile reception, internet speeds and delay in installation and transfer of service/s.*

#### **Service Provision Complaints**

■ GO ■ Melita ■ Others ■ Red Touch Fone



**Disclaimer:** *Complaints which were not filed against a particular service provider are being categorised under the field name 'Others'. These typically relate to complaints such as for example the transmission of free to air channels.*

#### 4.1.1 Faults

In the first half of 2013, the MCA received a number of claims regarding faults to fixed telephony, TV and internet services. There is a range of factors that could lead to such faults, including damages to the service provider's infrastructure, damages to the residence's internal wiring or damages to the CPE<sup>2</sup>. The damages could be caused by degradation, misuse, force majeure or third party disturbance. The timeframes for the full restoration of the service/s depends on the severity of the

<sup>1</sup> Claims received by the Authority include both complaints and enquiries received.

<sup>2</sup> Customer Premises Equipment.

fault. Such faults are directly addressed by the service provider. The Authority deals with such cases by monitoring the actions undertaken by the service provider to ensure that faults are repaired at the earliest possible. In this respect, service providers are required to include the timeframes for the restoration of service/s following a fault in their subscriber contracts. In those cases investigated by the MCA where it was evident that the fault was not caused by force majeure, subscribers were provided the applicable compensation/refunds.

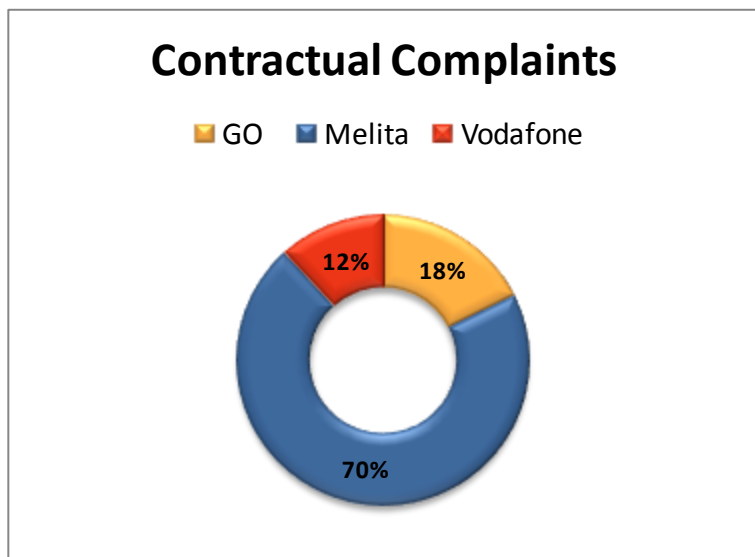
#### 4.1.2 Free to Air Television Channels

Other issues that were raised related to the transmission of foreign free to air TV channels. 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.

The MCA also received a few claims regarding the transmission of free to air Maltese TV stations. The MCA assists end-users encountering such difficulties by providing information on the set-up required to view these channels. The set-up consists of a UHF aerial and a digital set-top box which are connected to a TV set. Modern flat-panel TVs are likely to have a built-in digital tuner, in which case no digital terrestrial set-top box is required. The UHF aerial is required to be pointing towards the closest transmitter. These transmitters are positioned in the following locations - Delimara, Nadur, Mellieha, Mtarfa, Naxxar or Portomaso.

More information on free to air services is available in the [FAQ](#) section on MCA's website.

## 4.2 CONTRACTUAL



*Similar to the complaints received in the second half of 2012, during the first period of this year, the most common contractual complaints received by the Authority related to the termination of a service/s. A small number of complaints related to unfair contractual terms and to the applicability of conditions which were allegedly not spelled out by the service provider at selling point.*

With regard to the termination of services, in line with the requirements emanating from the legislation regulating the "ECS", service providers' contracts must include the termination procedure that subscribers should follow to terminate a service/s. In particular, when subscribing to a service, end-users must look out for the following conditions related to termination:

- Procedure for termination;
- Early termination fees;
- Advance notice; and
- Return of rented equipment.

In some of the cases reported to the MCA, subscribers who requested the termination of a service/s were not aware of the above conditions. In this respect, the Authority highlights that there is a legal obligation that requires service providers to include this information in subscriber contracts. The MCA stresses that subscribers must carefully read the terms and conditions governing the service/s in question prior to subscribing and to terminating a service/s.

On the other hand, in those cases where the procedure of termination of services was not adhered to by the service provider, the Authority intervened in order to ensure that the service/s was/were successfully terminated.

The MCA will be reviewing the termination conditions adopted by service providers to make sure that the procedures for terminating a service/s are reasonable and that they do not act as a disincentive for subscribers to switch from one service provider to another.

The Authority also received a claim alleging that a subscriber who was terminating his/her service after that the initial contractual agreement had expired and the contract had been renewed, was informed by his service provider that he had to pay an early termination fee in order to terminate the service. The application of such fees would be in breach of applicable regulations. This matter was brought to attention of the concerned service provider and it was required to provide the necessary reassurances in this respect. The Authority will continue to monitor and assess the accuracy of information provided on this matter by customer care agents of all service providers in the industry. Subscribers who encounter any such difficulties are required to contact their service provider and/or MCA for further guidance.

More information on termination of services is available in the [FAQ](#) section on MCA's website.

With respect to complaints received by the Authority regarding unfair contractual terms and applicability of conditions which were not spelled out at selling point, the MCA closely monitored these cases and ensured that the operator provided the necessary redress to end-users were appropriate.



### 4.3 BILLING

Predominantly, the complaints of a billing nature received by the Authority related to non-payment of bills and the procedures applicable in such instances. The Authority noted a rise in this type of complaint when compared to previous reporting periods. A small number of complaints regarding alleged unclear and unjustified billing were also received.

Service providers may, in line with the applicable laws, take action/s when subscribers repeatedly and persistently fail to pay their bills. Such actions<sup>3</sup> could include disconnection or suspension of the service/s, the imposition of late payment fees and the application of interests on outstanding fees.

When investigating these cases, the Authority first verifies that the service provider followed the procedures set out in the subscriber's contract and that the charges in the invoices are justified and correct. Following that, the Authority mediates between the service provider and the subscriber until an amicable solution is met. In those few cases where the Authority fails to reach an amicable solution, the service provider may pursue legal action to collect outstanding dues. On the other hand, if the subscriber is still contesting the bill or the service provider's actions, he may file a claim at the Consumer Claims Tribunal or take personal legal advice.

The MCA also received a few claims regarding unclear and unjustified billing. The MCA closely monitored these cases and ensured that the operator provided the necessary clarifications when billing details were unclear. In those cases where a charge was not justified, the Authority ensured that such charged was waived.

### 4.4 ELECTRO MAGNETIC FREQUENCY (EMF)

The Authority received some enquiries regarding Electromagnetic Frequency (EMF) emissions from base stations. MCA's remit in EMF matters is to ensure that operators of electronic communications networks abide with the conditions of their licence, i.e. that the levels of radiation are within the levels established by International Commission on Non-Ionizing Radiation Protection "ICNIRP". In this respect, the MCA notes that to date, all sites audited by MCA were found to be well within ICNIRP's public exposure levels. The Authority has guided end-users filing claims on health related matters to contact the competent Health Authorities.

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<sup>3</sup> Any actions and procedures that the service provider may take should a subscriber fail to pay his bills are required to be listed in the subscriber's contract.

## 5.0 POST

The MCA regulates the postal sector and ensures that postal services are available throughout the Maltese Islands. The Authority handles complaints related to postal services and seeks to provide redress when end-users encounter any difficulties.

In April 2013, the price of local mail items weighing 50 grams or less increased from €0.20c to €0.26c (taxes included). This resulted in greater demand for 0.06c stamps (or denominations amounting to €0.06c).

Following claims received by the Authority regarding the shortage of such stamps from MaltaPost's branches, the Authority conducted mystery shopping exercises to ensure that such stamps are available and required MaltaPost to immediately address any shortcomings. End-users requesting significant supplies of these stamps are encouraged to contact MaltaPost before visiting any of its branches. Furthermore, those encountering any difficulties may contact the Authority after having filed their claim with MaltaPost directly.

Other claims received related to re-direction of mail and delivery of regular and registered mail. The MCA ensured that MaltaPost provided the necessary redress to end-users where appropriate.

More information on Postal services is available in [MCA's guidelines](#) for end-users on MCA's website.

## 6.0 REGULATORY ACTIONS

### 6.1 MELITA'S CHANGES TO ITS BILLING DELIVERY METHODS

In a decision given on the 4th of February 2013, the Administrative Review Tribunal did not uphold Melita plc's appeal contesting the MCA's decision of 10th May 2012 whereby the Authority had fined Melita €2,000.

The MCA had determined that a change to subscriber's contract was factually made when Melita circulated a letter to subscribers informing them that those subscribed to 'MyMelita'<sup>4</sup> would no longer receive paper based bills unless they expressly advised Melita to the contrary. This action contrasted with Melita's subscriber contracts which established that subscribers would receive their bills by mail. The Authority considered that Melita had acted in breach of regulatory norms in that Melita had failed to provide subscribers the option to terminate their contract without incurring any penalties as a result of this contractual change, as required by law.

In the regulatory decision that it took the Authority reiterated that its decision was proportionate and in line with the powers conferred to it at law. Furthermore, the Authority outlined the relevance of such administrative fines for it to ensure that all service providers abide by their legal obligations so as to ensure that there is no abuse to the detriment of end-users and to the electronic communications markets.

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<sup>4</sup> 'MyMelita' is an online portal which provides a range of services to Melita subscribers.

## 7.0 REGULATORY DEVELOPMENTS

### 7.1 ITEMISED BILLING

In May 2013, the Authority published a [consultation on itemised billing](#). The increase in the use of telephony services, as well as the introduction of new services such as mobile data, has resulted in significantly more complex itemised bills. Notwithstanding, itemised bills remain a tool that allow subscribers to verify and control charges incurred and to adequately monitor their usage and expenditure.

While the Authority considers that detailed itemised bills could be required by subscribers in some instances, the Authority is of the opinion that the provision of a more basic level of itemised bill could better assist end-users to monitor their usage and expenditure on a regular basis.

In view of the above, the MCA consulted on the following:

- The minimum level of information to be included in the 'basic level itemised bill';
- The information that is to be included in the 'detailed itemised bill'; and
- The provision and format of the 'basic level itemised bill' and 'detailed itemised bill'.

The deadline for submissions to the consultation closed on the 19th of July 2013. A decision on this subject is expected to be published in 2013.