

## **MCA End-User Half Yearly Report**

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*July – December 2011*

<b>Document No:</b>	<b>MCA/O/12-0880</b>
<b>Date:</b>	<b>29th May 2012</b>

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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')<sup>1</sup>, postal and e-Commerce services.

As part of its function to ensure that the interests of consumers are safeguarded, the MCA overlooks and 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, MCA assists end-users by directing them to the appropriate body.

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<sup>1</sup> Electronic Communications Services include internet, TV, fixed and mobile telephony services.

## **2. Scope**

This report provides an analysis of the complaints and enquires received by the MCA in the second half of 2011 and also focuses on enforcement actions and related monitoring activities undertaken by the MCA during this period.

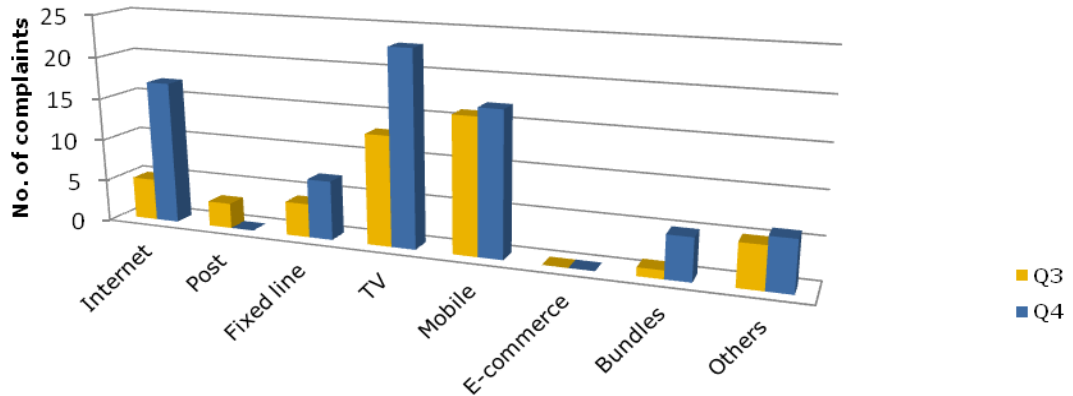
The MCA considers that the publication of this information raises awareness on consumer tools and rights in the sectors regulated by the MCA while also highlighting those practices which are creating difficulties for end-users and which will be closely monitored by the MCA. The MCA also strongly believes 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**

### ***July – December 2011***

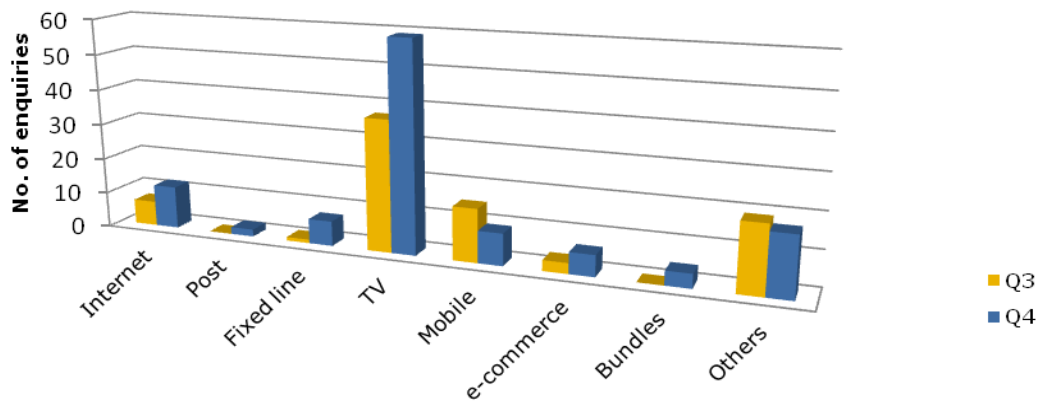
In the second half of 2011, the MCA received a total of **122 complaints and 198 enquiries**. The following provides an overview of the nature of complaints and enquiries received.

### Number of complaints by sector



	Internet	Post	Fixed line	TV	Mobile	E-commerce	Bundles	Others
■ Q3	5	3	4	13	16	0	1	5
■ Q4	17	0	7	23	17	0	5	6

### Number of enquiries by sector



	Internet	Post	Fixed line	TV	Mobile	e-commerce	Bundles	Others
■ Q3	7	0	1	37	15	3	0	19
■ Q4	12	2	7	59	9	6	4	17

## **4. Information on Complaints and Enquiries received**

### **4.1 Complaints**

The most prominent issues raised during the second half of 2011, relate to complaints regarding proposed changes to subscriber contracts, billing and contractual issues.

Towards the end of 2011, GO plc and Melita plc proposed changes to their subscriber contracts. This resulted in a number of complaints lodged with the MCA. 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. In this respect, the MCA issued a decision against GO plc requiring the said undertaking to ensure that those subscribers who chose to terminate their service as a result of GO's proposed modifications, are provided with a refund in relation to the unused portion of the advance payment for the lease of their set-top box. The MCA was pleased to note that corrective measures were undertaken by GO and no further actions were required. Both GO and Melita adhered to their obligations in the remaining instances.

Other major issues reported to the MCA relate to billing and contractual issues. The most common complaints were related to the charging of '**early termination fees**' which are normally 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 providers' 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 which were not included in the subscribers' contract. In these cases, the concerned service providers accepted they they could not claim such payments.

As from May 2011, in line with the new requirements to the legislation regulating ECS, service providers are required to provide subscribers with **email forwarding 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 situation until these issues were satisfactorily addressed.

Indoor mobile reception complaints have been on the rise during the second half of 2011. 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.

The MCA also registered a complaint on roaming-related billing. In this instance the service provider concerned, voluntarily agreed to refund the expenses incurred by the subscriber due to the service provider's failure to notify the subscriber when reaching data usage limits in line with the applicable **data roaming regulations**<sup>2</sup> which came into force on the 1<sup>st</sup> March 2010.

From time to time, the MCA receives complaints regarding telephony and internet packages marketed as 'unlimited' despite having an applicable usage limit and/or threshold. The MCA is of the view that such limitations, contrast with the term 'unlimited' and therefore this could possibly constitute a breach of consumer law. Such complaints are brought to the attention of the Malta Competition and Consumer Affairs Authority (MCCAA) for action as appropriate. In addition to the above, the MCA considers that should service providers apply usage limits and thresholds, these have to be clearly specified in subscribers' contracts in line with the applicable laws regulated by MCA.

The MCA also received a few complaints relating to unsolicited commercial calls. Under normal circumstances, the MCA informs the service provider in question about such complaints, requesting him to desist from making such calls in line with the end-users' request. In the event that such calls persist, the end-users may refer their complaint to the Malta Competition and Consumer Affairs Authority ('MCCAA') and / or the Data Protection Office, as such matters are regulated under the laws administered by these entities.

Other individual complaints, related to fixed and mobile number portability and faults. These complaints were addressed following MCA's intervention.

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<sup>2</sup> Further information on roaming is available on the following link: <http://www.mca.org.mt/article/no-more-roaming-bill-shocks-information-eu-mobile-roaming>.

With regard to the postal sector, the MCA investigated three separate complaints which related to courier services, tampered mail and customer care respectively. The MCA notes that in all these cases, the necessary evidence could not be gathered to enable a conclusive decision by the Authority. Notwithstanding, MCA closely monitored the situations and ensured that MaltaPost provided the necessary redress to end-users where possible.

## **4.2 Enquiries**

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

The main type of enquiries received during the second half of 2011 related to the [digital switchover](#). In fact on the 31<sup>st</sup> of October 2011, analogue TV transmissions were switched off and as from the 1<sup>st</sup> 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.

During this period, the MCA also registered a number of enquiries regarding e-Commerce. This could be attributed to the recent launch of the eCommerce Trustmark, namely [eShop](#). The eShop is an electronic shopping trust-mark for consumers and retailers. It embodies a harmonised set of electronic shopping principles that aim to support e-Commerce and increase online sales. It reassures consumers that they will receive reliable and trustworthy services from eShop verified traders.

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.



In view of the number of telephony packages which offer **on-net**<sup>3</sup> free minutes in the telephony sectors, the MCA also received, occasionally, a number of enquiries on the availability of a facility which enables callers to confirm whether or not a specific number is registered to the same network from where the call is being made. In this respect subscribers may call or send an SMS on **free phone number '180'**, in order to enquire whether a specific mobile number is registered to the same network. This service may be offered by the service provider either by means of a call or of an SMS. This service is also available for fixed telephony services and may be used by means of a call to free phone number '180'.

## 5. Projects Undertaken

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

In October 2011, the MCA published a decision regarding the manner in which any [modifications to the terms and conditions of subscriber contracts](#) for the provision of internet, TV, mobile and fixed telephony services are to be implemented by service providers and the legal rights of subscribers throughout such a process.

Service providers are required to inform subscribers about any modifications to the terms and conditions of their respective service contract, at least 30 days before such changes take effect. In such cases, subscribers must also be informed of their right to decline the changes without incurring any penalty fees during the 30 day notification period should they disagree with the proposed changes.

This decision specifies that such notifications must be made by means of a letter, with exceptions for pre-paid mobile services and limited to contain only information on the proposed modifications to the conditions of the service. Furthermore, this notification letter

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<sup>3</sup> On-net calls are calls made to a number operated by the subscriber's same service provider.  
Off-net calls are calls made to a number operated by a different service provider to the subscriber's.

must be easily distinguishable from any other communications that may be sent to the subscriber at the same time. This will enable subscribers to properly assess the modifications being proposed by their service provider.

This decision also establishes that in the event that service providers propose changes which are considered to be manifestly positive by the MCA, for example, a reduction in tariffs, such changes may be introduced with immediate effect without the need to apply the 30-day notification period. Service providers are still required to inform subscribers about these changes; however in such instances subscribers will not be given the option to terminate the contract.

Another aspect of this decision relates to the termination of packages, services and/or the closing down of service providers. MCA's decision requires that in such instances, service providers notify subscribers in writing about the termination of their service, providing them with information on how to switch to an alternative service provider and affording them technical support so as to minimise any disruptions of service.

*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.*