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MCA ANNUAL REPORT & FINANCIAL STATEMENTS 2009



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# CHAIRMAN'S MESSAGE

2009 WAS ANOTHER REMARKABLE YEAR FOR THE COMMUNICATIONS SECTOR, ONE THAT AS THE REGULATOR, I AM EXTREMELY PROUD TO HAVE CONTRIBUTED TO.

**PHILIP MICALLEF**  
EXECUTIVE CHAIRMAN

**D**uring this year, we were able to fully integrate and consolidate the new functions that were assigned to the Authority in 2008 and consequently concentrate our efforts in contributing to the competitiveness and sustainability of this thriving sector. The growing level of competition in the electronic communications sector has contributed in no small way to the increased deployment of networks and the resultant proliferation of offers on the market. Early in 2009, we witnessed an important development in terms of infrastructure competition with the advent of a third mobile operator.

The ongoing heavy investment by network operators in state-of-the-art equipment, despite the global economic downturn, is testament to the strength of the sector and its ever-increasing role as an essential element in the economic and social fabric of our society.

The growing level of competition has served to bring tangible benefits to end-users, not only in terms of choice of service providers and offerings, but just as importantly, in terms of the cost of communication with prices falling appreciably in the last years. Today, the cost of a one minute mobile telephony call is on average 31% less than it was just four years ago. The prices of international calls bear no resemblance to those available when the telephony market was liberalised in 2003. Even fixed telephony prices, which were never particularly high, have also come down with service providers offering very favourable on-net rates and other attractive packages to suit varying needs. With regard to broadband offerings, most undertakings have upgraded their packages by offering higher speeds whilst keeping prices unchanged. The 4Mbps to 6Mbps connections have proved to be the most popular, with the average price per unit of speed decreasing by approximately 40% in just two years.

A black and white photograph of a middle-aged man in a dark suit and striped tie, standing on a modern staircase with a glass railing. He is looking upwards and to the right. The staircase has a prominent yellow and grey geometric graphic overlay on the left side. The background shows a modern building with large windows.

THE GROWING  
LEVEL OF  
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THE RESULTANT  
PROLIFERATION  
OF OFFERS ON THE  
MARKET.

These positive developments are driven, amongst others, by effective regulation. However, regulation is only effective if the legal framework reflects the realities of the sector as it evolves in response to technological, economic and societal developments. It is for this reason that, in 2009, various amendments to a number of communications laws were proposed, as part of a consultation that was issued jointly with the Ministry for Infrastructure, Transport and Communications. The consultation proposed the integration of the provisions of the Radiocommunications Act into the Electronic Communications (Regulation) Act, thereby creating one comprehensive primary law dealing with radiocommunications. In addition, amendments to the Postal Services Act and to the Postal Services (General) Regulations were also proposed. It is anticipated that these amendments will come into force during 2010.

Also on the legal front, during 2009 the MCA contributed actively to the debate at the EU level on the amendments to the EU electronic communications framework, which were eventually adopted in December 2009. Concerted efforts on the transposition of this new framework commenced immediately upon its adoption.

In tandem with other European countries, significant strides were made in preparation for the switch from analogue to digital terrestrial transmissions. In February, a policy and strategy for digital broadcasting that meets general interest objectives was published in a joint effort between the Authority, the Malta Broadcasting Authority and the Ministry for Infrastructure, Transport and Communications. This policy denoted the start of a series of initiatives critical to the switchover process. In an attempt to address and overcome the implementation challenges that lie ahead, the Government instituted a Digital Switchover Committee, that is chaired by the Authority, to direct and coordinate all these activities.

In addition to the awareness campaign on the digital switchover, the Authority also strengthened its communication with consumers by means of a short but intensive information campaign that was launched

in November. The campaign was aimed at assisting consumers in taking more informed decisions when subscribing to electronic communications services by raising awareness of how to select particular services to best suit individual needs, of their rights at law and of service providers' obligations towards consumers. This culminated in the door-to-door distribution of a consolidated and updated version of the consumer guides that were originally published in 2008 covering all communications sectors. During the year, the Authority also conducted a thorough review of all existing consumer contracts to ensure that service providers are compliant with the applicable rules. Corrective measures were taken in instances of contraventions.

Another drive by the Authority in favour of the consumer was the preparation of a consultation document aimed at facilitating the switching between Internet Service Providers (ISPs) by encouraging them to offer email mobility services, thereby ensuring that email services do not act as a barrier to switching.

In 2009 subscribers to mobile services enjoyed an unexpected windfall when a number of mobile operators removed their top-up charges on pre-paid mobile services. This action was taken in response to the Authority's intervention with respect to breaches of the roaming regulation. This very welcome development effectively reduced the overall cost of mobile telephony for subscribers of these services and, in addition, ensured improved transparency relating to the cost of mobile calls.

The imminent expiry of the existing radio spectrum licences in the 900 and 1800 MHz bands in 2010 and 2011 called for a detailed analysis of the current licensing framework and a review of developments that have taken place since the initial spectrum assignment in these bands was made. During 2009, the Authority laid the groundwork for the reassignment of this spectrum and put forward proposals in a consultation that was issued in February. The need for a smooth

transition from existing to new assignments and the complexity that this brings with it, triggered an extensive consultation process that is expected to continue in 2010.

In the postal sector, work continued unabated in preparation for the full liberalisation of the market in December 2012. With the impending onset of further competition in this sector, the current legal framework had to be reviewed, especially in light of directives adopted at European level. Considerable effort was put into the necessary recommendations to Government on the transposition of the new Postal Directive and on provisions that are obsolete, ambiguous or restrictive on the MCA's regulatory or enforcement powers in this regard.

On another note, the Authority picked up speed in its eInclusion activities and progressed significantly in the roll-out of Community Technology Learning Centres (CTLCs) and Wi-Fi hot spots across the Maltese Islands. During the year, the Authority was also awarded EU funds to roll-out two projects aimed at facilitating eBusiness as well as an education and awareness campaign on internet safety.

I have mentioned only a few of the initiatives that marked 2009. This report provides an in-depth review of the work conducted during the year as well as the related outcomes. In addition, this year, we have attempted to provide a more detailed market overview than usual, in response to the continued strong interest for statistical data on these markets.

The review highlights the continued positive trends across the sector, with growth in most key indicators. This year, total turnover for the telecoms sector reached €249 million, down by 6.4% over 2008. In terms of the number of employees, this sector engages a total of 1971 full-time and 16 part-time employees, of which, 172 full-time and 15 part-time jobs were created in 2009 alone. The postal sector employs a total of 626 full-time employees and 3 part-time as at the end of 2009.

We have definitely come a long way in this sector. With various companies operating in each sector we must keep up the pace of competition, ensuring customers get value-for-money innovative services and that our communications market serves as a catalyst to attract foreign investors to Malta.

No doubt, challenges will remain unabated in the year ahead: facilitating roll-out of fibre networks, implementing the new EU framework for telecommunications, the switchover from analogue to digital terrestrial general interest broadcast transmissions, laying the groundwork for a fully liberalised postal market, implementing the important EU-funded initiatives related to the information society, reassigning the spectrum band in the 900Mhz and 1800Mhz band and the establishment of a regulatory regime for electronic signatures are but a few of these. On top of our agenda, however, remains our commitment to provide consumers with the necessary means to assess the quality of their broadband services with the aim of improving quality overall.

Regulation should always promote competition for growth in the sector. Applying the new EU regulatory framework in an effective and pro-competitive manner will help attract more investment. As we have continued to improve our regulatory regime over time, I am confident that stronger collaboration with our stakeholders, coupled with the continued dedication of my team and sterling direction of my fellow board members, will serve to not only overcome challenges but surpass them to the benefit of our society and economy.



Ing. Philip Micallef  
Executive Chairman

# BOARD MEMBERS

A TOTAL OF 12 BOARD MEETINGS WERE HELD DURING THE COURSE OF 2009.

01 Ivan Bartolo  
Deputy Chairman

02 Celia Falzon  
Board Secretary

03 Antonio Ghio  
Member

04 Antoinette Vassallo  
Member

05 Marcel Cutajar  
Member

06 Berta Sullivan  
Member

07 Philip Micallef  
Executive Chairman



01

02

03

04

05

06

07

# MANAGEMENT COMMITTEE

01 Celia Falzon  
Chief of External Relations

02 Roberta Tabone  
PA to Chairman

03 Philip Micallef  
Executive Chairman

04 Paul Micallef  
Chief Legal Advisor

05 Patrick Vella  
Chief of Policy & Planning

06 Helga Pizzuto  
Chief Technical Officer

07 Ian Agius  
Chief of Operations



01

02

03

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07

# GENERAL MARKET OVERVIEW

## MARKETS CONTINUE TO MOVE TO COMPETITIVE SCENARIO



Maltese electronic communications markets are characterised by infrastructure competition due to the number of operators owning their own networks. This phenomenon continued to be reinforced in 2009 with the advent of a third mobile network operator as well as the deployment of two submarine fibre-optic cables, bringing the total number of connections offering international services, such as the provision of Internet Protocol (IP) bandwidth, to four.

This type of competition is beneficial to consumers both in a direct manner, through more retail choice, as well as indirectly, through the proliferation of multiple platforms which are capable of hosting virtual wholesale operators, thus increasing consumer choice in terms of service provision. 2009 also brought with it the entry of additional enhanced service providers in the mobile market that use parts of such networks to offer a distinct array of alternative services.

Retail markets continued to reflect these competitive characteristics through additional bundled offers, better prices as well as more value-for-money for consumers overall.

The MCA continued to work to consolidate these opportunities by making such products more accessible whilst, at the same time, safeguarding the sustainability of the underlying networks. This is important as it provides potential market entrants with an investment ladder enabling them to adopt a staggered approach in reaching higher levels of autonomy in service provision.



# GENERAL MARKET OVERVIEW

## THE PERFORMANCE OF THE ELECTRONIC COMMUNICATIONS AND POSTAL SECTORS

### 1. Electronic Communications Sector

Despite the global recessionary environment, the local telecoms industry maintained a strong economic performance in 2009.

As far as the sector's contribution to Gross Domestic Product (GDP) (or gross value added) is concerned, local telecoms directly accounted for 2.4% of the economy in 2009, down from 2.9% in 2008, but well in line with the growth rate registered in 2007. Given the global economic downturn, the ongoing investment in telecoms infrastructure and the increase in the uptake of telecoms services is viewed very positively.

Some of the more interesting developments show that, last year, telecoms operators spent around €114 million as intermediate consumption, compared to €91.6 million in 2008 and that compensation of employees amounted to €45.7 million, up from €41.5 million the previous year.

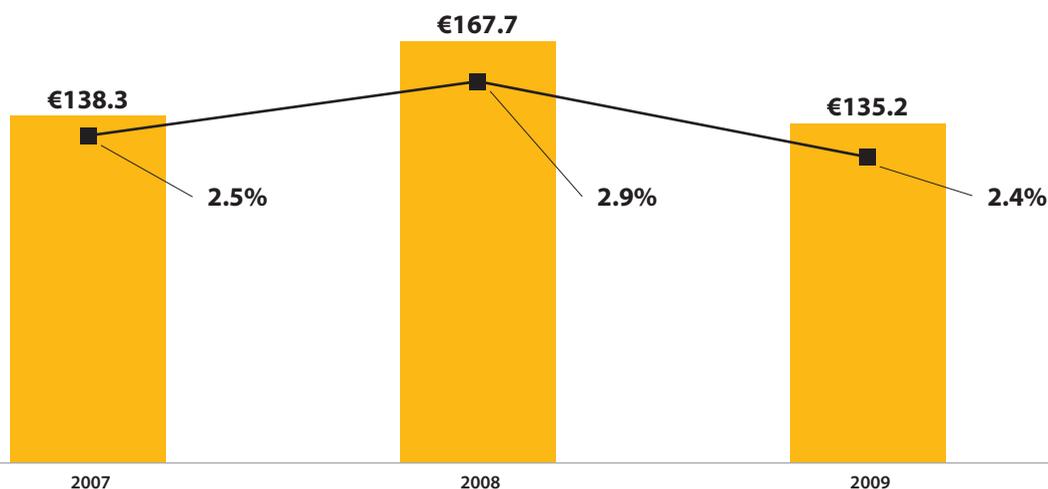
Overall, the telecoms sector registered an operating surplus of €47 million in 2009 and yielded a gross output of €249.2 million.

The telecoms sector also registered an increase in employment levels through the creation of 172 full-time and 15 part-time jobs.

Contributions by telecommunications to GDP

SOURCE: NATIONAL STATISTICS OFFICE

■ CONTRIBUTION IN NOMINAL TERMS (IN MILLIONS)  
■ CONTRIBUTION AS PERCENTAGE OF GDP



## FIXED LINE TELEPHONY

### 2. Postal Sector

The postal sector contributed 0.2% to GDP in 2009. Despite the marginal decline in this sector's contribution to GDP last year, intermediate consumption in the domestic economy increased to □13 million, up from □9.2 million a year earlier.

Compensation of employees also increased, from □10.4 million to □11 million, in the period under review.

Overall, the postal sector yielded a gross output of □23.8 million in 2009.

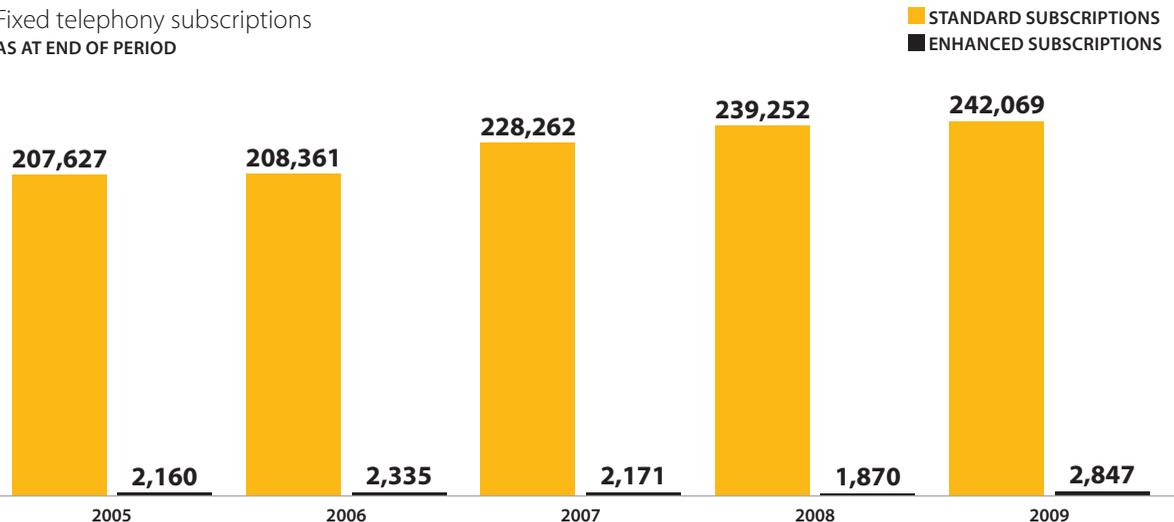
The postal sector is primarily characterised by full-time employees, which amount to 626.

The fixed telephony segment of the local telecoms sector registered growth in 2009, as subscribers and traffic volumes increased.

### 1. Fixed Telephony Subscriptions

Year-on-year, both standard telephony subscriptions and enhanced telephony subscriptions increased<sup>1</sup>. This denotes a change in the trend for enhanced telephony subscriptions which had been on the decline since 2006. Active fixed telephony subscriptions increased by 3,794 to reach 244,916 by the end of the year. This reflects a slower growth than that experienced in 2008, which is perhaps not surprising, given that this market is in decline in most other countries. In the current review period, a total of 3,904 inward portings were registered. This is significantly lower than the corresponding figure in 2008, which amounted to 6,226.

Fixed telephony subscriptions  
AS AT END OF PERIOD



1. Standard fixed line subscriptions refer to those subscriptions offering a single fixed telephony connection. Enhanced fixed line subscriptions encompass those subscriptions offering multiple channel (dual or more) fixed telephony connections.

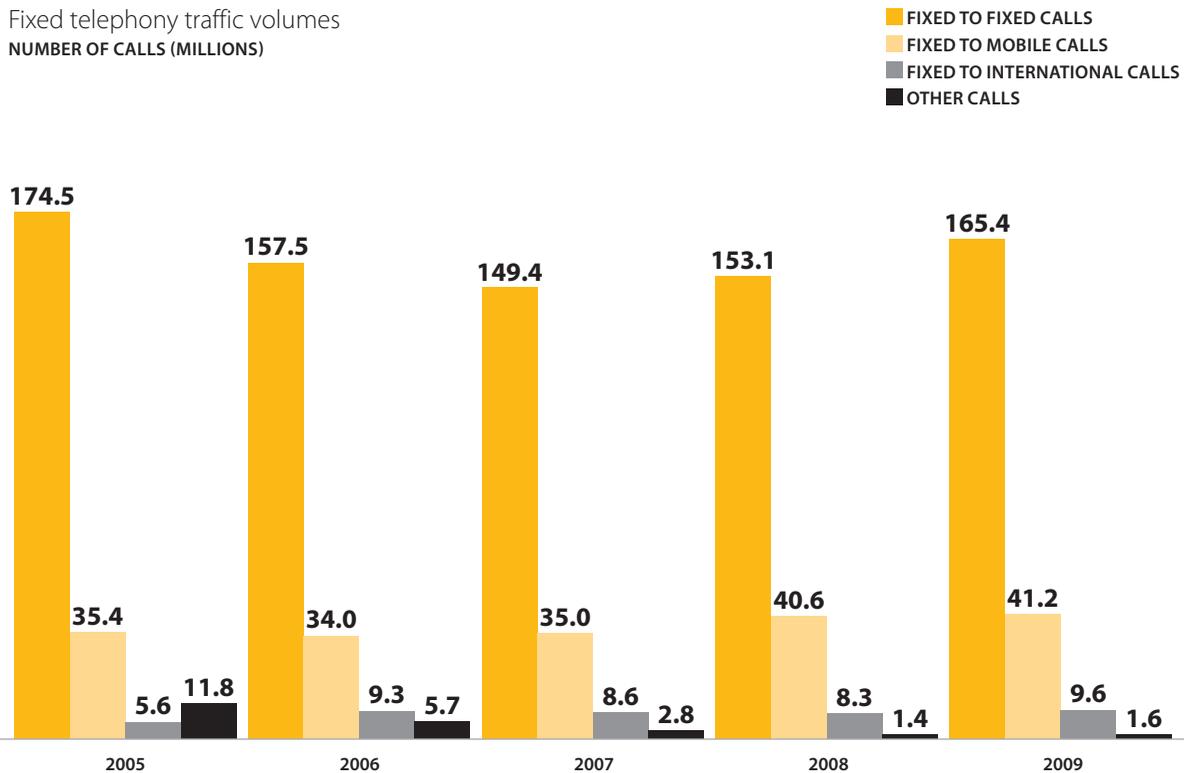
## 2. Fixed Telephony Traffic Volumes

Traffic volumes originating from fixed line networks also increased in 2009. In this regard, fixed line originating calls registered an overall increase of 7.1% when compared to the previous year, from 203.4 million to 217.8 million calls.

The number of fixed-to-fixed (FTF) calls went up from 153.1 million in 2008 to 165.4 million last year, representing an overall increase of 8%.

In 2009, nearly 78% of all FTF calls were on-net, which means that the respective calls were originated and terminated on the same network. This figure, however, is down from 80.9% in 2008.

Fixed telephony traffic volumes  
NUMBER OF CALLS (MILLIONS)



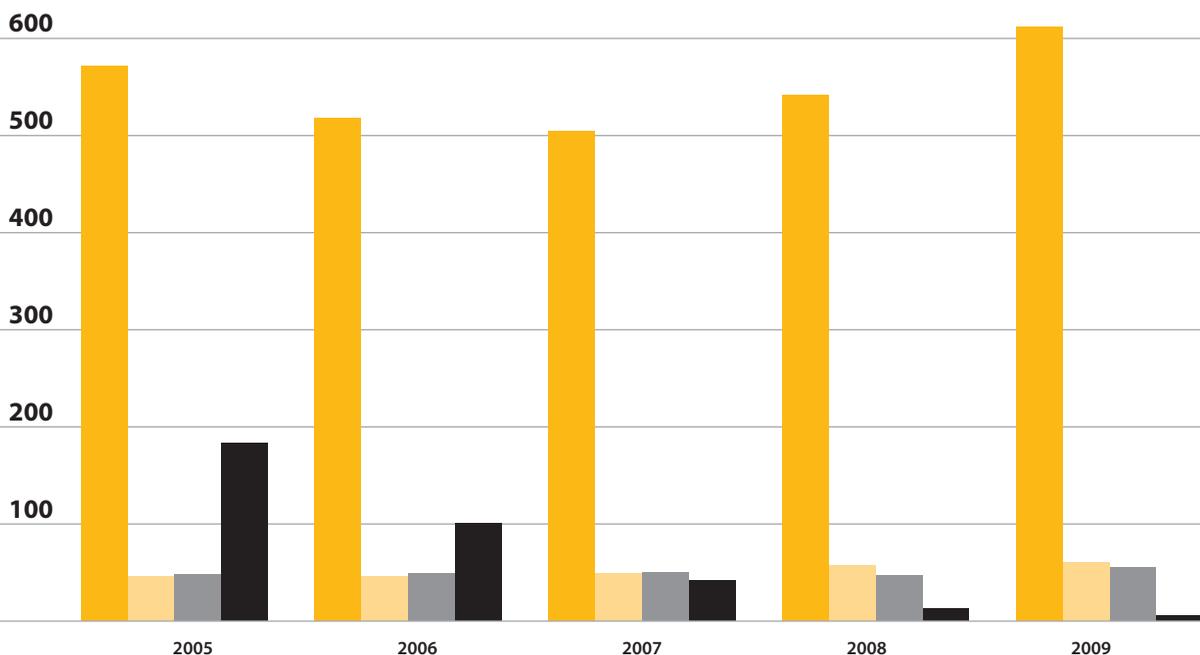
Meanwhile, off-net FTF calls increased from 29.2 million in 2008 to 36.4 million in 2009, that is, from approximately 19% of the total number of originating FTF calls to 22% respectively.

Further to this, increases were also registered in terms of fixed-to-mobile (FTM) calls, fixed-to-international (FTI) calls and other fixed line originating calls<sup>2</sup>.

In terms of voice call minutes, fixed line originating traffic increased from 659.9 million in 2008 to 733.2 million in 2009. This increase is considered to be attributable to users benefiting from 'free' on-net minutes.

Fixed telephony traffic volumes  
NUMBER OF CALL MINUTES (MILLIONS)

■ FIXED TO FIXED CALL MINUTES  
■ FIXED TO MOBILE CALL MINUTES  
■ FIXED TO INTERNATIONAL CALL MINUTES  
■ OTHER CALL MINUTES



2. Including Internet calls, freephone calls and premium calls.

In particular, the stronger take-up of multiple play packages, including free on-net (and sometimes off-net) minutes with any postpaid tariff included in the bundle offer, seems to have driven growth in traffic.

Indicatively, the number of consumers having a postpaid fixed line subscription bundled with some other electronic communications service amounted to 47,947

as at the end of 2009, a figure which has been steadily increasing since the beginning of the year.

In 2009, the FTF segment of local fixed line originating minutes recorded a 9% increase over 2008 traffic levels. In absolute terms, FTF minutes increased by 70.1 million, of which 40.9 million were on-net and 29.2 million off-net.

#### NUMBER OF SUBSCRIBERS ON MULTIPLE PLAY OFFERS INCLUDING A FIXED LINE SUBSCRIPTION

2009

	Q1	Q2	Q3	Q4
<b>Number of subscribers on two-play offers including:</b>	<b>14,540</b>	<b>15,756</b>	<b>15,516</b>	<b>12,559</b>
Postpaid telephone line + Pay TV	13,375	14,656	14,813	11,627
Postpaid telephone line + Internet	1,165	1,100	703	932
<b>Number of subscribers on triple-play offers including:</b>	<b>4,973</b>	<b>5,477</b>	<b>4,446</b>	<b>4,749</b>
Postpaid telephone line + Pay TV + Internet	2,444	2,150	943	779
Postpaid telephone line + Internet + Mobile	2,529	3,327	3,503	3,970
<b>Number of subscribers on quadruple-play offers including:</b>	<b>15,369</b>	<b>21,002</b>	<b>26,706</b>	<b>30,639</b>
Postpaid telephone line + Pay TV + Internet + Mobile	15,369	21,002	26,706	30,639
	34,882	42,235	46,668	47,947
<b>As a percentage of total postpaid subscriptions</b>	<b>17.72%</b>	<b>22.33%</b>	<b>24.71%</b>	<b>25.54%</b>

In the corresponding period, FTM minutes increased by 2.7 million, or 4.7%, whilst FTI minutes increased by 8.3 million, or 17.6%.

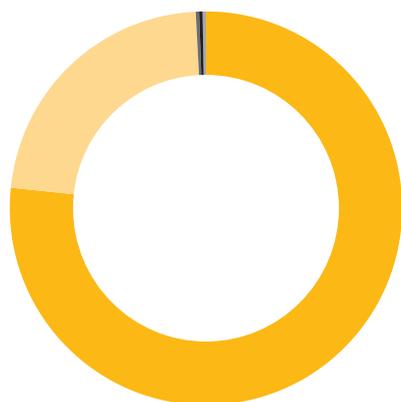
On a different note, the 'other call minutes' segment, which includes Internet minutes, freephone and premium minutes, declined by 7.9 million, or 59.7%, mainly as a result of the expected drop in dial-up Internet minutes.

### 3. Fixed Telephony Market Shares

During 2009, five operators were providing fixed telephony services. In terms of fixed telephony subscriptions, GO accounted for 76.8% of the total as at the end of 2009, down from 77.8% as at the end of 2008.

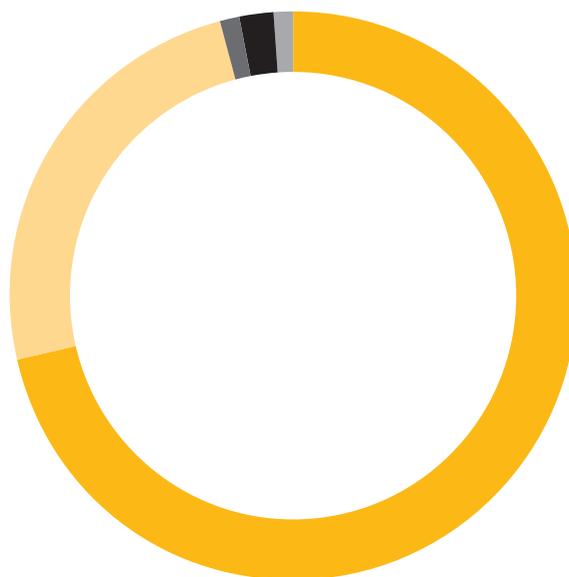
In 2009, a decline in market share was also registered by SKY Telecom, down to 0.4% from approximately 1% a year earlier.

Fixed telephony market shares  
REGISTERED FIXED LINE SUBSCRIBERS, 2009



■ GO (76.79%)  
■ MELITA (22.55%)  
■ SKY TELECOM (0.44%)  
■ VODAFONE (MALTA) (0.18%)  
■ SIS (0.04%)

Fixed telephony market shares  
NATIONAL VOICE CALL MINUTES, 2009



■ GO (73.39%)  
■ MELITA (25.34%)  
■ SKY TELECOM (0.08%)  
■ VODAFONE (MALTA) (1.11%)  
■ SIS (0.07%)

Melita's share, on the other hand, accounted for 22.6% of the total, up from 21% as at the end of 2008, whilst Vodafone (Malta) maintained its standing at 0.2%.

Trends in voice traffic generally reflected market share trends with respect to subscriptions. In 2009, GO accounted for 73.4% of all national fixed line minutes originated, down from 75.4% in 2008. Another share decline was registered by SKY Telecom, down to 1.1% from 1.6% in the previous year. Meanwhile, Vodafone (Malta) and SIS each accounted for 0.1% of the total, both in 2008 and 2009.

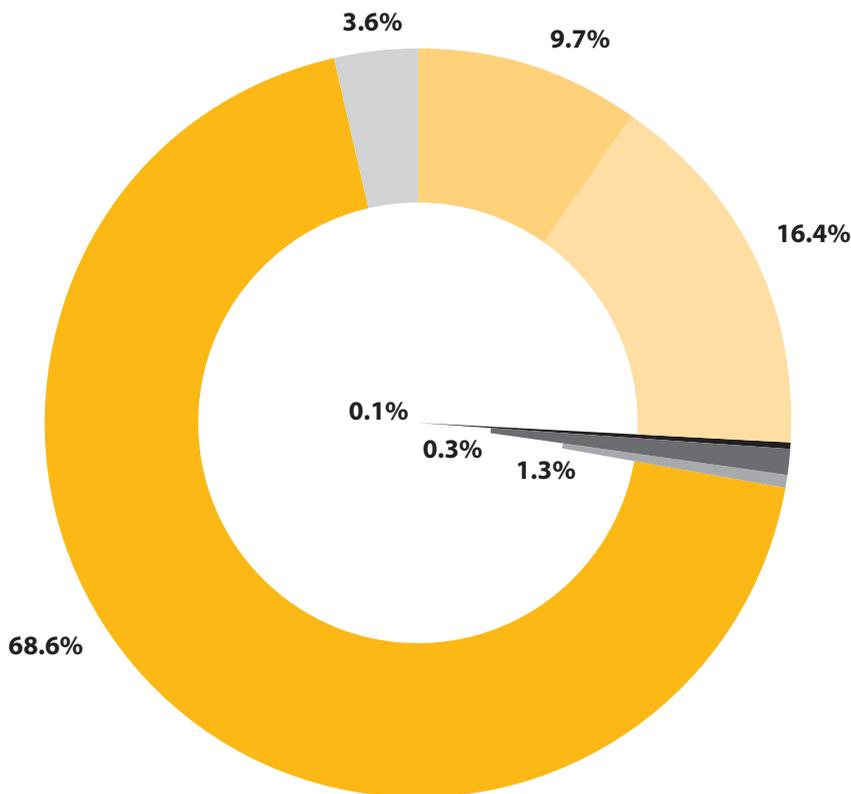
A gain in market share was registered by Melita, up from 22.9% in 2008 to 25.3% in 2009.

Of all international voice call minutes originated in 2009, Ten21 accounted for the largest share at 68.6%, compared to 63.2% in the previous year.

This gain for the Ten21 service, which is offered by GO, came at the expense of other local operators offering international voice call services, such as Melita, which lost 1.4% of its share; third party ISPs, which lost 0.4% of their share and SKY Telecom, which lost 0.3%.

Fixed telephony market shares  
INTERNATIONAL VOICE CALL MINUTES, 2009

- GO
- GO (TEN21)
- MELITA
- VODAFONE (MALTA)
- SIS
- SKY TELECOM
- ISPs



#### 4. Average Fixed Line Tariffs

Revenue-based price indicators<sup>3</sup> for fixed line telephony show that, on average, fixed line call rates were somewhat stable in 2009, irrespective of the tough competition facing operators in this sector.

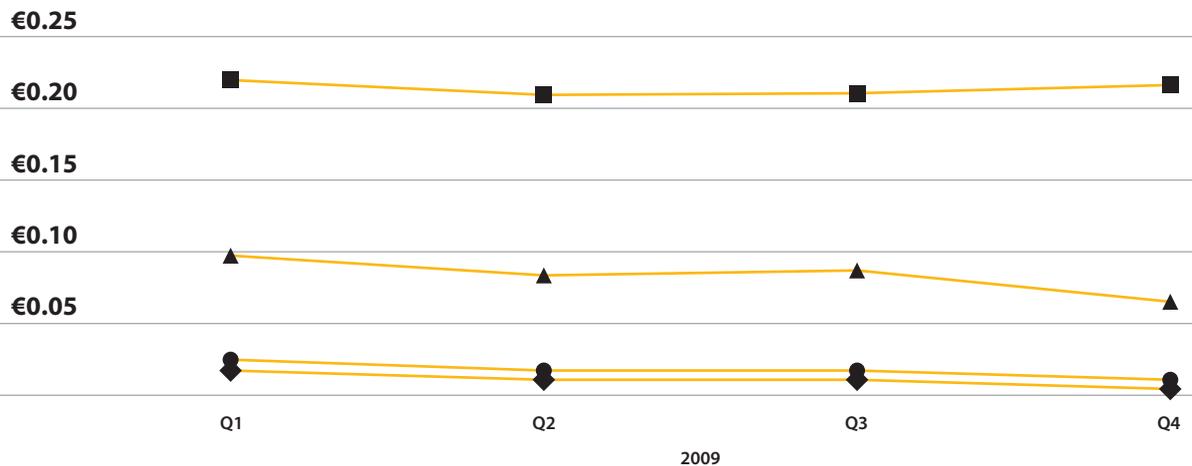
Average fixed line tariffs in 2009 could be regarded as being favourable to the consumer, especially when considering flat-rate tariff schemes.

Such schemes generally allow for a number of fixed minutes per month (both on-net and off-net depending on the scheme) for free or for a low rate, with additional minutes charged at a higher rate.

In 2009, revenue-based market trends<sup>4</sup> indicate that average on-net FTF call rates went down slightly from €0.015 per call minute in Q1 2009 to €0.013 in Q4 2009. Correspondingly, average off-net FTF call rates went down from €0.017 per call minute to €0.013 per call minute. FTM call rates hovered around €0.21 per minute<sup>5</sup>.

FTI call rates declined from an average of €0.09 in Q1 2009 to an average of €0.06 in Q4 of the same year. This decline reflects lower international call rates charged by Melita.

Average fixed line tariffs  
BASED ON TRAFFIC REVENUES PER CALL MINUTE



3. Figures for years prior to 2009 are not available.

4. Exclusive of tax related revenues.

5. The quoted rates are an average of revenue-based figures supplied by local fixed line network operators. These may, therefore, vary from actual rates quoted for different plans and schemes launched by local operators. Average rates are also exclusive of VAT and excise tax.

## 5. Malta and the EU

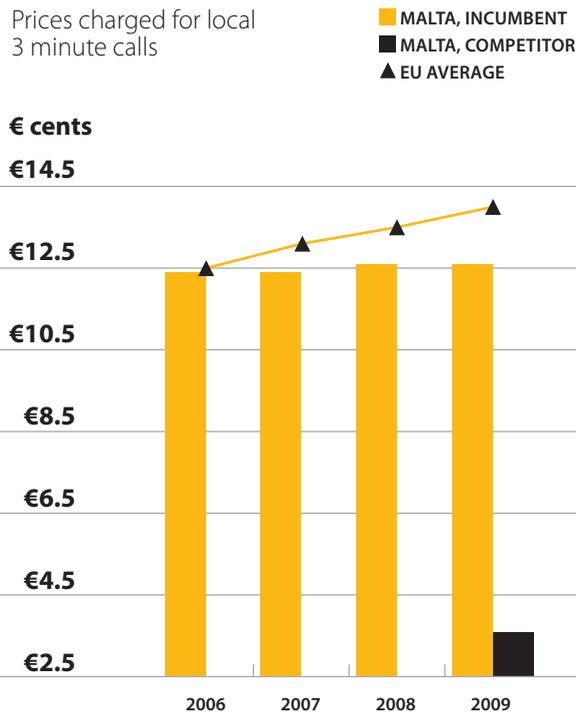
Developments in the local fixed line telephony sector have been positive in 2009, particularly when the performance of this sector is benchmarked against the EU average.

Indicators presented in the 15th Progress Report on the Single European Communications Market 2009 in relation to this sector underline two main positive outcomes. The first relates to fixed line number

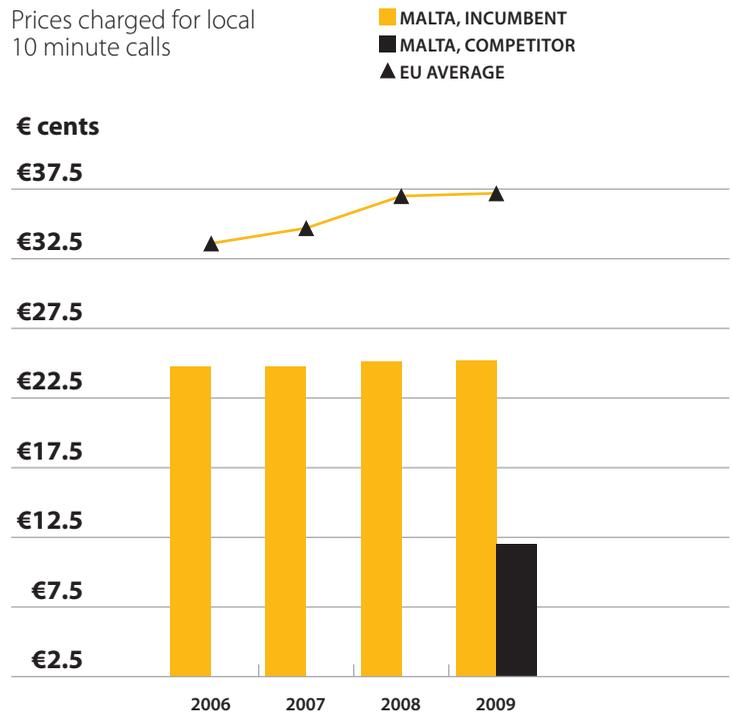
portability, wherein Malta continues to register one of the lowest timeframes for porting a fixed line number. In 2009, Malta's average porting time was 5 days, compared to an EU average of 6.5 days.

Another positive outcome relates to retail fixed line rental charges and individual fixed line call rates. The Report shows that rental charges applied by the local incumbent and the prices charged<sup>6</sup> by the said operator and competitors for individual fixed line calls are lower than the EU average values<sup>7</sup>.

Prices charged for local 3 minute calls



Prices charged for local 10 minute calls



6. Prices refer to peak hours (weekdays 11:00am) and are expressed in €-cents, including VAT for residential rates but not for business rates. Rental charges quoted for business users also exclude VAT.

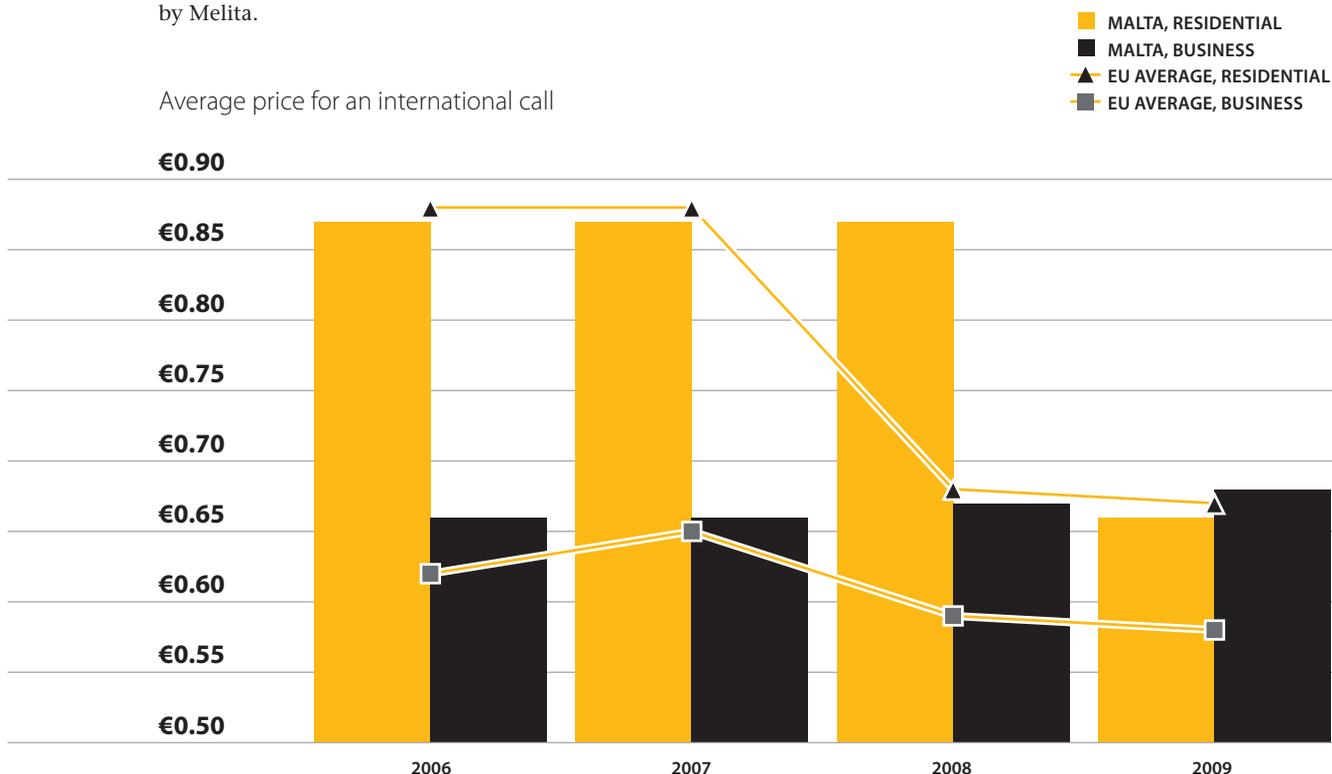
7. The EU average value is the average of the EU countries weighted according to the national population.

In 2009, the EU average weighted rental charge stood at €0.15 for residential users and €0.16.9 for business users, compared to €0.5.99 and €0.13.2 for Malta respectively.

In terms of individual fixed line calls, the EU average price charged for a 3 minute local call stood at €0.14, compared to €0.126 charged by the local incumbent operator GO and €0.036 charged by the second largest alternative operator Melita. The EU average price charged for a 10 minute local call stood at €0.37, compared to €0.25 charged by GO and €0.12 charged by Melita.

In terms of international call tariffs, the said report shows that, based on a basket comparison of international Public Switched Telephone Network (PSTN) call charges of incumbent operators<sup>8</sup>, Malta's incumbent operator price for an average fixed international call in 2009 stood at €0.66 for residential users and €0.68 for business users<sup>9</sup>. In the case of residential users, Malta's incumbent operator's price was lower than the EU average. This was not the case, however, with the price charged for business users.

Average price for an international call



8. Call charges are weighted between peak and off-peak hours: 25% for peak hours and 75% for off-peak hours. The Report notes that international call charges vary widely depending on destination and that the basket results are based on a weighted average call charge.

9. In the case of the residential basket, VAT is included. In the case of the business basket, VAT is excluded.

## MOBILE TELEPHONY

The mobile telephony sector continues to represent a growing segment in the telecoms industry as indicated by key trends that emerged in 2009.

### 1. Mobile Telephony Subscriptions

The performance of the mobile telephony sector has been robust over the last few years with continuous growth in the number of subscriptions.

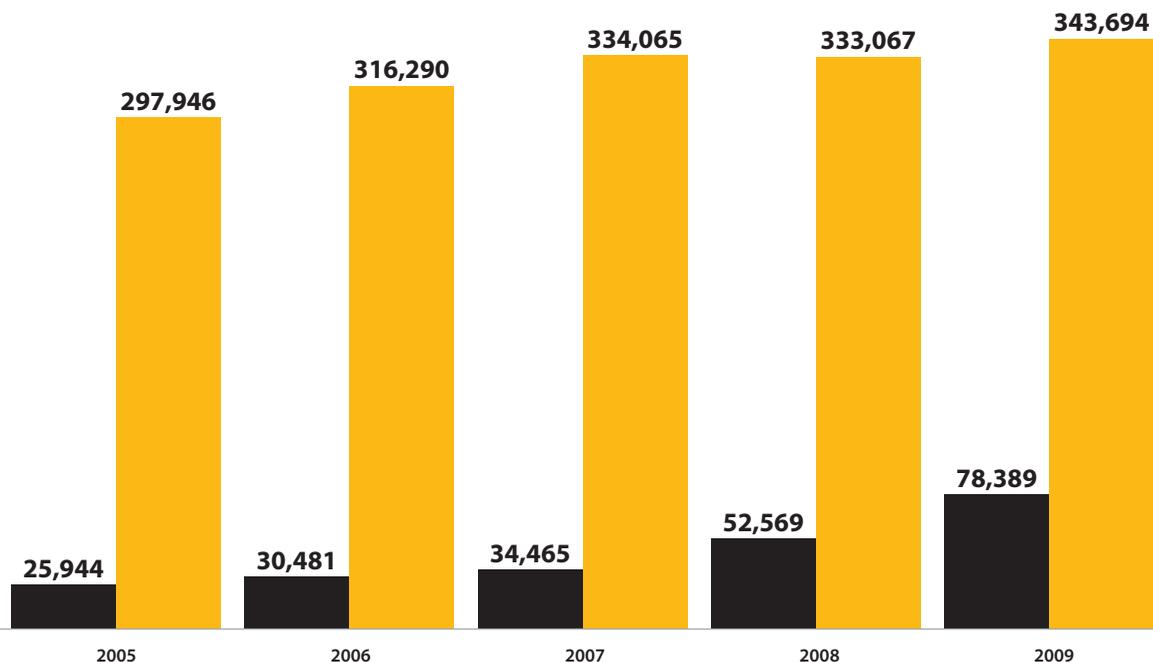
As at the end of 2009, the total number of mobile telephony subscriptions was 422,083 corresponding to a penetration rate (measured as a percentage of the population) of 102%.

Both prepaid and postpaid subscriptions increased with the largest increase of 49.1% recorded for postpaid subscriptions. This growth rate needs, however, to be judged against the background of a very low postpaid subscriber base. Meanwhile, prepaid subscriptions increased by 3.2%.

In 2009, over 59,600 mobile portings were recorded, up from 35,327 portings registered in 2008. This increase is attributable to the arrival of Melita Mobile, which evidently has driven mobile telephony portings to higher levels.

Mobile telephony subscriptions

■ POSTPAID SUBSCRIPTIONS  
■ PREPAID SUBSCRIPTIONS



## 2. Mobile Telephony Traffic Volumes

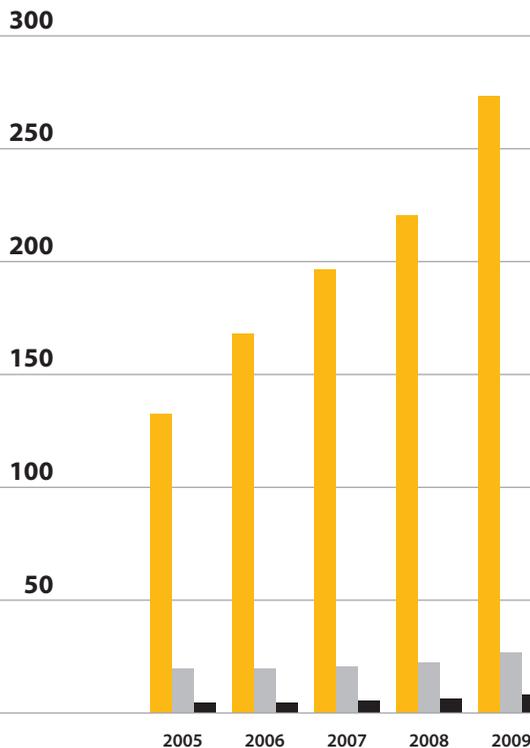
Traffic volumes originating from mobile networks enjoyed substantial growth in 2009, with mobile-to-mobile (MTM) voice call minutes increasing by 52.8 million, or 23.9% and mobile-to-fixed (MTF) and

mobile-to-international (MTI) minutes increasing by 4.3 million, or 19.1% and 1.9 million, or 30%, respectively.

Over 66.5% of all MTM minutes recorded in 2009 were on-net. This percentage represents 182.2 million on-net MTM minutes, compared to 91.3 million off-net MTM minutes.

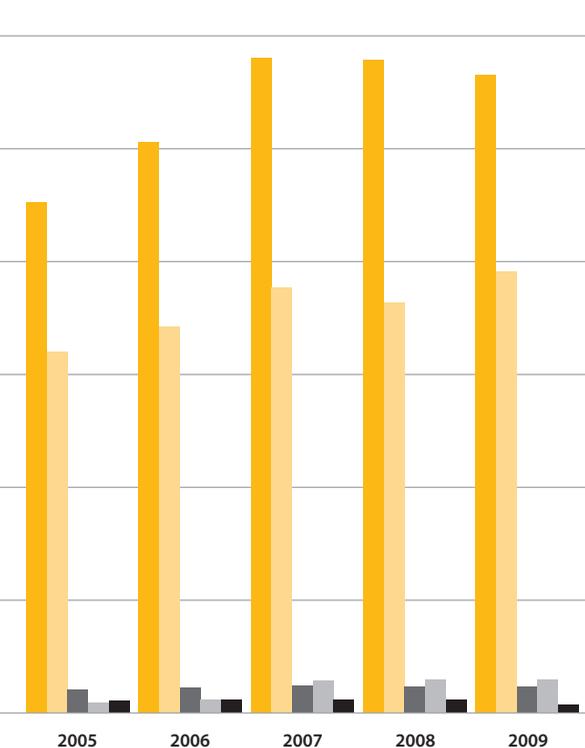
Mobile telephony traffic volumes  
NUMBER OF CALL MINUTES (MILLIONS)

■ MTM  
■ MTF  
■ MTI



Mobile telephony traffic volumes  
NUMBER OF SMSs (MILLIONS)

■ ON-NET SMSs  
■ OFF-NET SMSs  
■ SMSs TO FOREIGN MOBILE NETWORKS  
■ SMSs SENT FROM INTERNET PORTALS  
■ PREMIUM SMSs



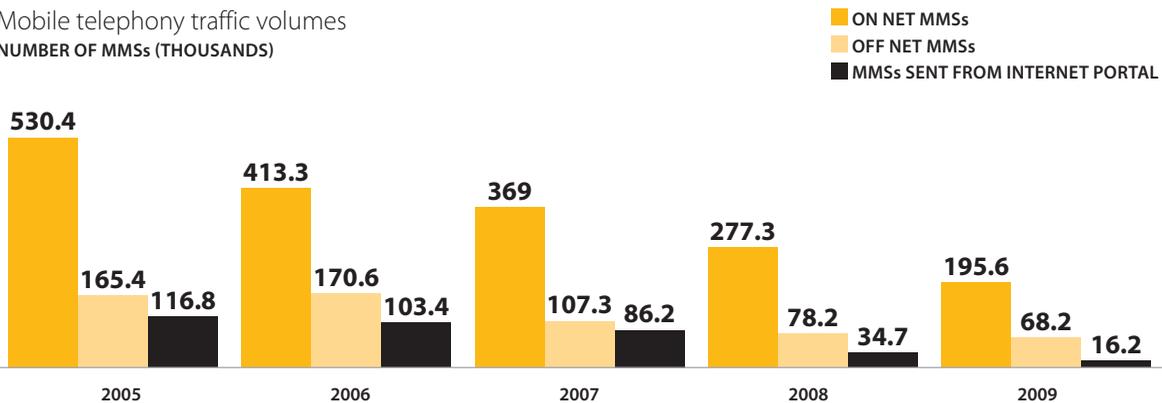
The year under review has also experienced a small increase in SMS traffic levels. The total number of outgoing SMSs in 2009 amounted to 508.6 million, an increase of 4.9 million, or approximately 1%, over the corresponding figure for 2008.

This marginal increase is attributable to stronger off-net SMS traffic levels last year, which saw an increase of 13.8 million text messages, or 7.6%, over the corresponding figure in 2008.

The increase in the number of outgoing off-net SMSs outweighed declines in the number of outgoing on-net SMSs, SMSs sent to foreign mobile networks, SMSs sent from Internet portals and premium SMSs.

The number of outgoing on-net SMSs declined by 6.7 million, or 2.3%. Such a decline could be attributable to the availability of a number of mobile tariff plans offering discounts and reductions on calls to certain numbers, cheaper on-net call rates, or even a fixed number of free on-net calls.

Mobile telephony traffic volumes  
NUMBER OF MMSs (THOUSANDS)



MMS traffic registered another negative year in 2009, as the number of outgoing MMSs went down to the lowest levels ever registered since 2005.

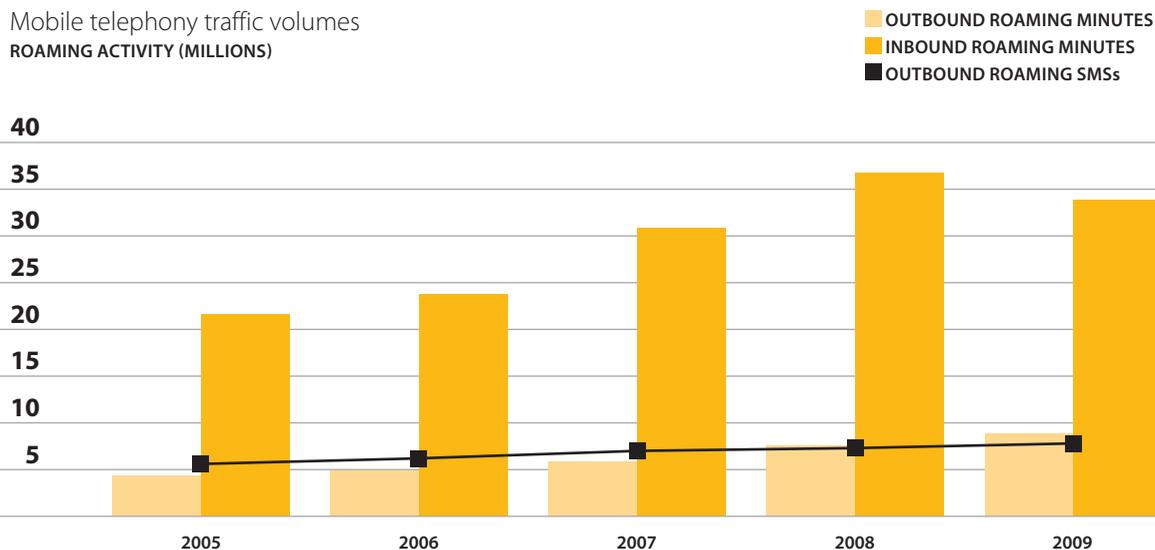
### 3. Roaming Activity

Year-on-year growth was positive for outbound roaming activity, which refers to the total voice minutes and SMSs made and/or received by local subscribers whilst roaming abroad.

In 2009, outbound roaming minutes increased by 24.4% when compared to 2008. Outbound roaming SMSs increased by 5.6%.

On the other hand, inbound roaming activity, which here refers to the total minutes made and received by visiting (foreign) subscribers whilst roaming in Malta, declined by 7.9%, from 36.8 million minutes in 2008 to 33.8 million minutes in 2009.

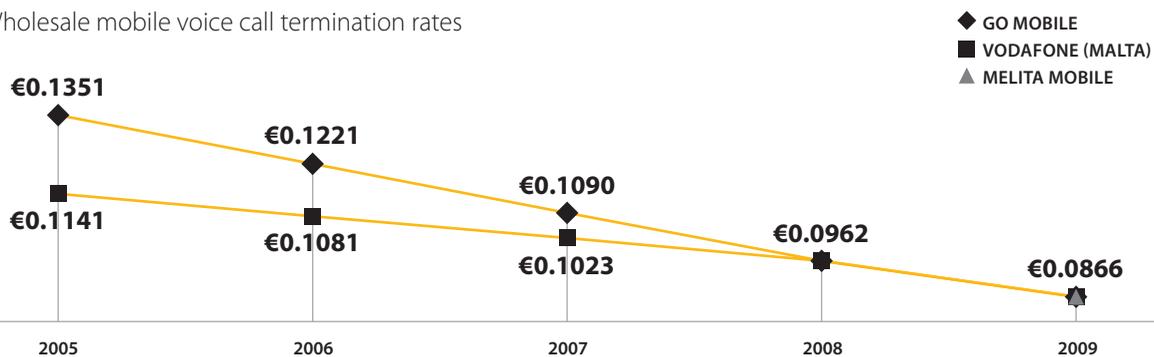
Mobile telephony traffic volumes  
ROAMING ACTIVITY (MILLIONS)



#### 4. Wholesale Mobile Voice Call Termination Rates

In line with developments at an EU level, local mobile wholesale voice call termination rates have declined between 2005 and 2009. The current rate now stands at €0.0866.

Wholesale mobile voice call termination rates



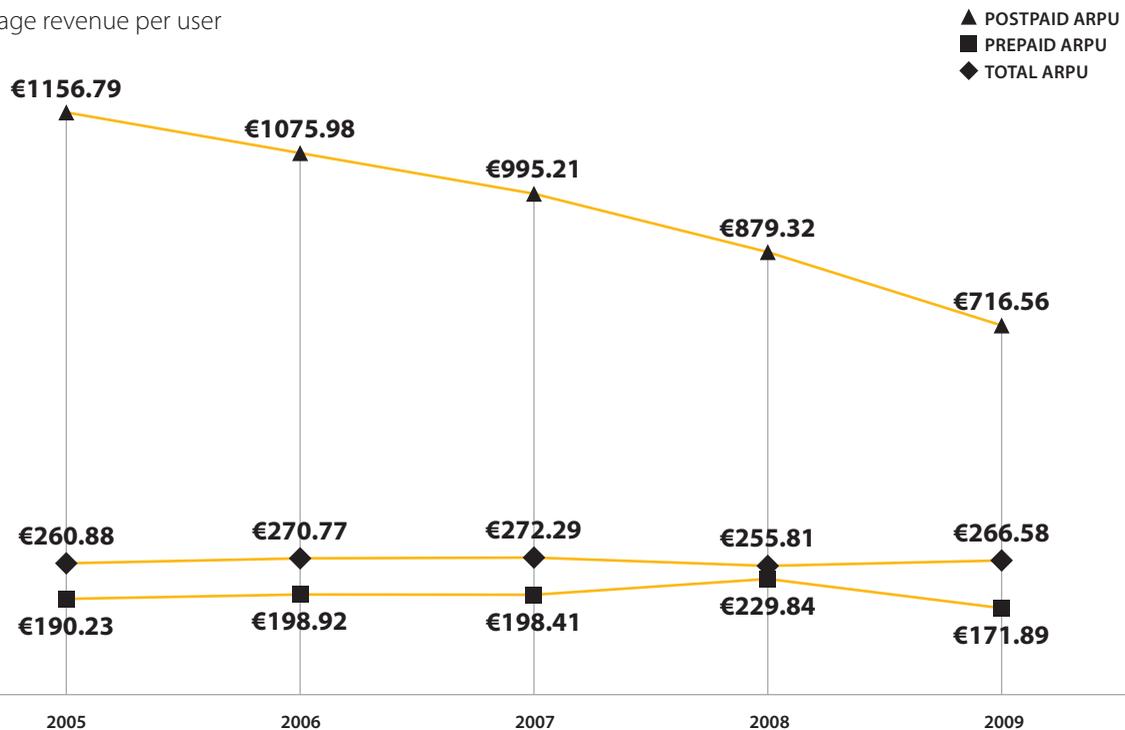
## 5. Mobile Average Revenue Per User (ARPU)

ARPU figures include total revenues of service providers divided by the average number of active subscribers<sup>10</sup> during the period.

On an annual basis, postpaid ARPU has declined steadily from approximately □1156.8 in 2005 to □716.6 in 2009.

Prepaid ARPU also experienced a dip in 2009, when it fell to □171.3 from □190.2 in the previous year. This dip was however singular as prepaid ARPU actually increased in the period 2005 to 2008.

Average revenue per user



10. The average number of active subscriptions during the respective period is computed by adding the number of subscribers at the start of the period plus the number of subscribers at the end of the period, divided by 2.

## 6. Average Mobile Tariffs

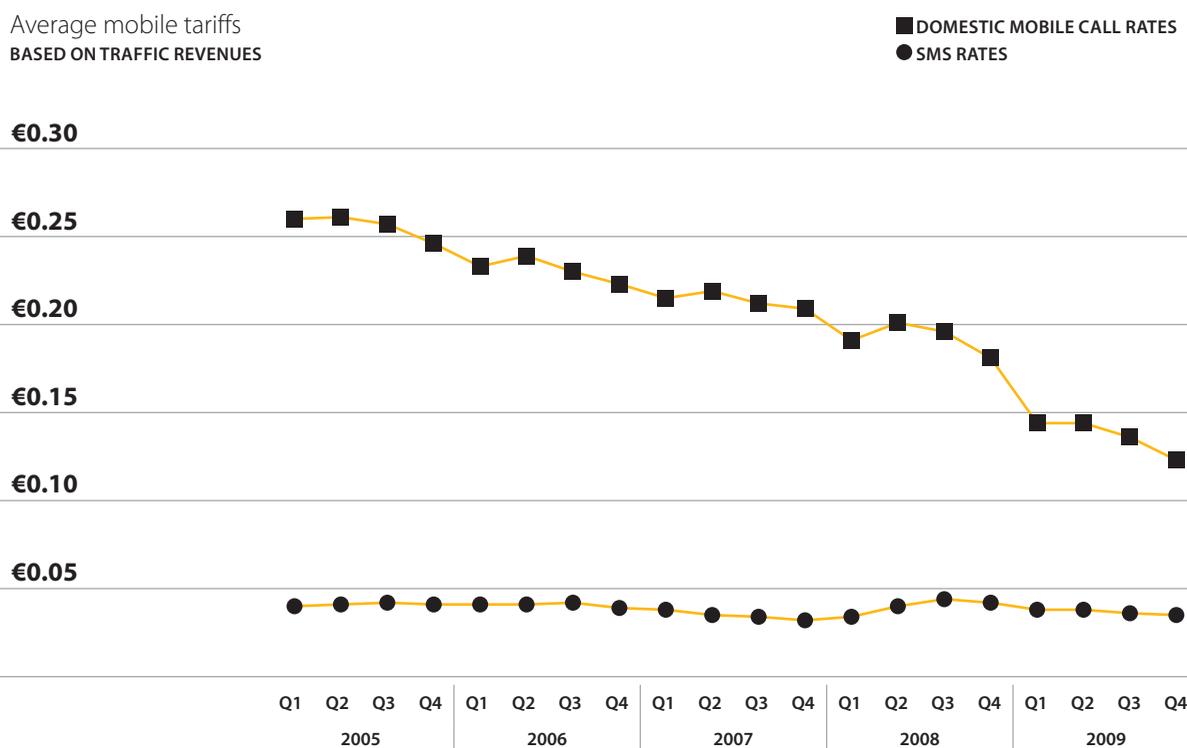
The decline in ARPU is attributable to reductions in mobile tariffs, especially on the domestic front, as operators in this sector face increasing competition, especially with the arrival of Melita Mobile in 2009.

Revenue-based market trends<sup>11</sup> indicate that, on average, domestic mobile call rates went down significantly

in the period 2005 to 2009. As at Q1 2005, domestic mobile voice call tariffs hovered around an average rate of €0.26 per minute. The corresponding average rate in Q4 2009 went down to approximately €0.12<sup>12</sup>.

Average SMS rates have also registered declines, from €0.044 in Q3 2008 to €0.035 in Q4 2009<sup>13</sup>.

Average mobile tariffs  
BASED ON TRAFFIC REVENUES



11. Exclusive of tax related revenues.

12. Figures have been derived by considering domestic voice traffic revenues per call minute, as reported by local operators.

13. It must be noted that local mobile operators offer free or low flat rate SMSs in bundles and on weekends and other schemes which affect the final outcome for the average SMS rate. Figures have been derived by considering total revenues registered for outgoing SMS traffic (both local and foreign mobile networks) over the number of outgoing SMSs registered in the respective period. Calculations exclude premium SMSs and SMSs sent from Internet portals.

## 7. Malta and the EU

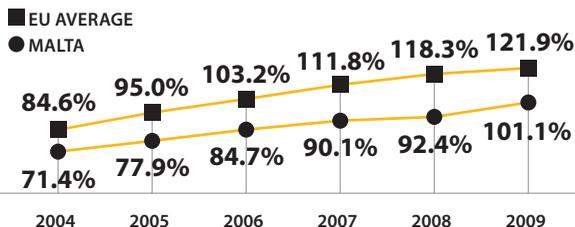
The mobile penetration rate for Malta increased significantly last year, from 93.2% as at the end of 2008 to 102.1% as at the end of 2009<sup>14</sup>.

The slight shift towards postpaid mobile contracts experienced in Malta is in line with what is happening in other EU countries, as generally the number of prepaid subscribers is in decline to the benefit of postpaid.

As at the end of 2009, Malta's ratio of prepaid to postpaid subscribers stood at 81.4% (down from 86.4% a year earlier) to 18.6% (up from 13.6%). The EU average ratio stood at 55.3% for prepaid, to 44.7% for postpaid.

In the area of pricing, the Commission's 15th Progress Report on the Single European Communications Market 2009 provides an overview of the price per minute for mobile communications across the EU. The report underlines that the EU average price per minute of

Mobile penetration in Malta and the EU  
BASED ON THE NUMBER OF MOBILE ACTIVE SUBSCRIBERS  
(FIGURES QUOTED AS AT Q3 OF EACH YEAR)



14. According to the EU Commission's "15th Progress Report on the Single European Communications Market 2009", the EU average penetration rate in 2009 stood at around 122%.

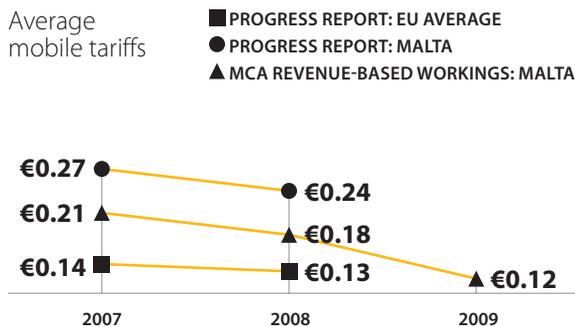
15. This figure has been arrived at by subdividing domestic mobile voice call traffic revenues by the total number of domestic mobile outgoing voice call minutes excluding VAT, excluding retail roaming revenues and excluding revenues from contract line rental fees, SMS text messages and data services. The average price per revenue quoted by the EU 15th Progress Report on the Single European Communications Market 2009 is defined as the revenues from mobile voice communications divided by the total outgoing minutes of voice communication excluding VAT, but including access charges.

mobile calls declined from €0.14 in 2007 to €0.13 in 2008, a marginal decline of €0.01.

Malta's price per minute for mobile communications was reported as having declined by €0.03, from €0.27 in 2007 to €0.24 in 2008. This decline resulted prior to the launch of Melita Mobile, as this operator started offering its services in February 2009. It is therefore likely that Malta's price per minute of mobile communications declined by a faster rate in 2009 as competition intensified even further.

MCA preliminary workings suggest that, by the end of 2009, Malta's price per minute of mobile communications hovered around €0.12<sup>15</sup>.

2009 was also the year with the highest number of mobile portings, at 59,630. This figure is 68.8% higher than that reported for 2008. More significantly, it just took one day for local operators to execute mobile portability, compared to a European average of 4.1 days.



## INTERNET AND eCOMMERCE

The Maltese have become accustomed to the proliferation of broadband, as the respective customer base continues to expand and infrastructure-based competition intensifies.

### 1. Internet Subscriptions

Developments in 2009 were consistent with trends observed in previous years. Overall, the total number of Internet subscriptions as at the end of the year under review increased by 8.4% over the corresponding figure recorded as at the end of 2008, to reach 111,543.

Broadband Internet subscriptions increased by nearly 10,000 in twelve months. On the other hand, the number of active dial-up subscriptions went down from 1,993 as at the end of 2008 to just 694 as at the end of last year.

When categorised by download speed, slightly over 72% of all broadband Internet subscriptions as at the end of 2009 had an average connection speed of 4Mbps or more but less than 6Mbps.

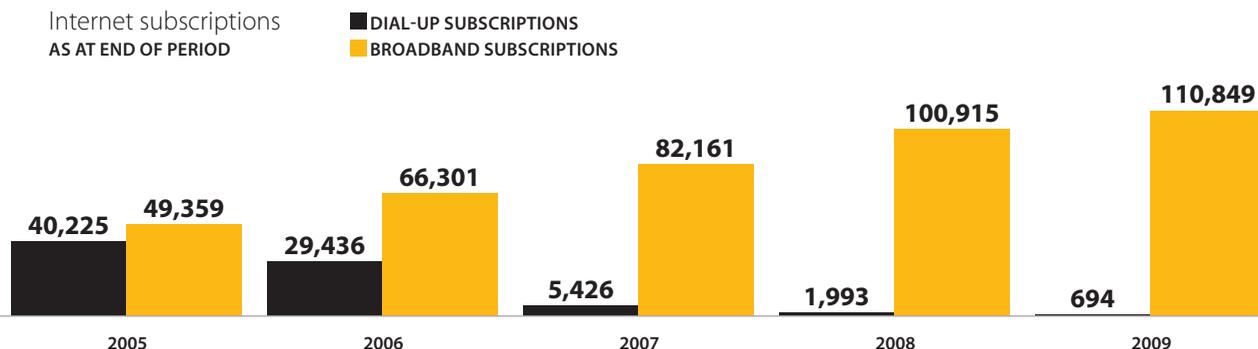
On the other hand, as at the end of 2008, most broadband Internet users had an average connection speed of 2Mbps or more but less than 4Mbps.

The number of broadband Internet subscriptions with an average connection speed of 10Mbps or more amounted to 10,629 or 9.6% of the total number of broadband subscriptions.

Higher download speeds in 2009 are attributable to local service providers upgrading their subscribers' packages at no extra charge. Developments last year therefore mark a significant improvement in the overall quality of broadband services experienced by end-users.

Broadband subscriptions by technology in 2009 were divided into 54,221 cable broadband subscriptions, 52,747 Digital Subscriber Line (DSL) broadband subscriptions, 3,813 Broadband Wireless Access (BWA) active subscriptions and 68 other<sup>16</sup> broadband subscriptions.

Internet subscriptions  
AS AT END OF PERIOD

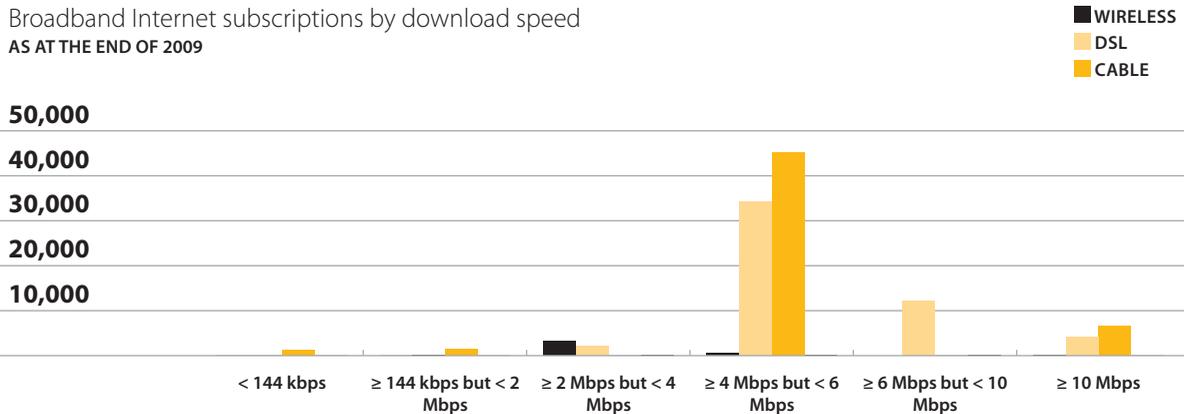


16. Network coverage is not nationwide.

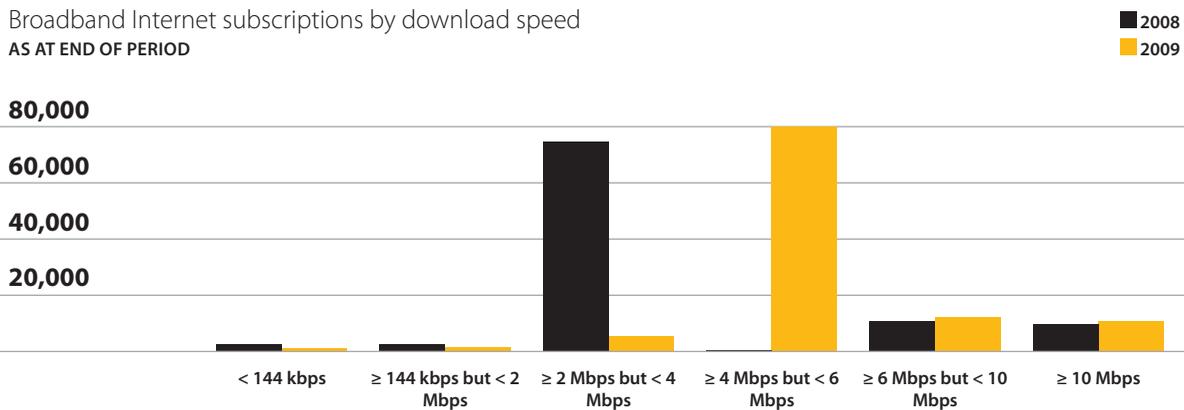
As at the end of the year under review, Malta's fixed broadband penetration rate (measured as a percentage of the population) stood at 26.8%, up from 24.4% as at the end of the previous year. This penetration rate is also significantly higher than the EU average rate of 24.8%<sup>17</sup>.

Regarding Malta's mobile broadband penetration rate, as measured by dedicated mobile data service cards<sup>18</sup>, the figure stood at around 1.8% in Q3 2009, compared to an EU average of 5.2%. Albeit lower than the EU average, the figure reported for 2009 marks an improvement over 2008.

Broadband Internet subscriptions by download speed AS AT THE END OF 2009



Broadband Internet subscriptions by download speed AS AT END OF PERIOD



17. Source: EU 15<sup>th</sup> Progress Report on the Single European Communications Market, 2009.

18. This excludes mobile handset users. Services are offered via cards/modems/keys only.

## 2. Market Shares for the Broadband Internet Sector

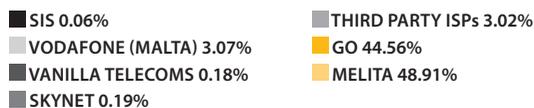
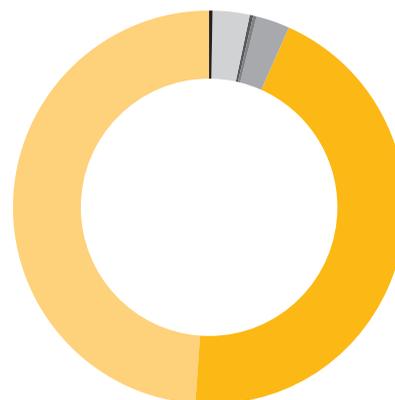
As at the end of last year changes were registered in the market share by technology. Cable-based subscriptions accounted for 48.9% of all broadband Internet subscriptions, down from 51.6% twelve months earlier.

On the other hand, the share of DSL-based subscriptions increased from 45.6% as at the end of 2008 to 47.6% as at the end of 2009.

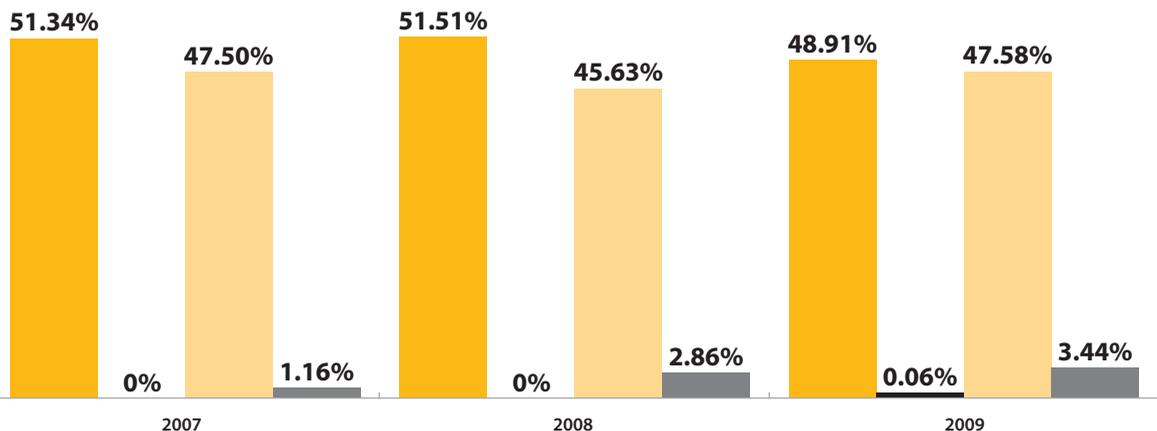
During the same period, an increase in market share was also registered in wireless-based subscriptions, from 2.9% to 3.4%.

As at the end of 2009, Melita represented 48.9% of all broadband Internet subscriptions, GO represented 44.6%, Vodafone represented 3.1%, third party ISPs, 3% and other operators, 0.4%.

2009 market shares, by operator  
IN TERMS OF BROADBAND INTERNET SUBSCRIPTIONS



2009 Market shares, by technology  
IN TERMS OF SUBSCRIPTIONS



### 3. Broadband Internet Pricing

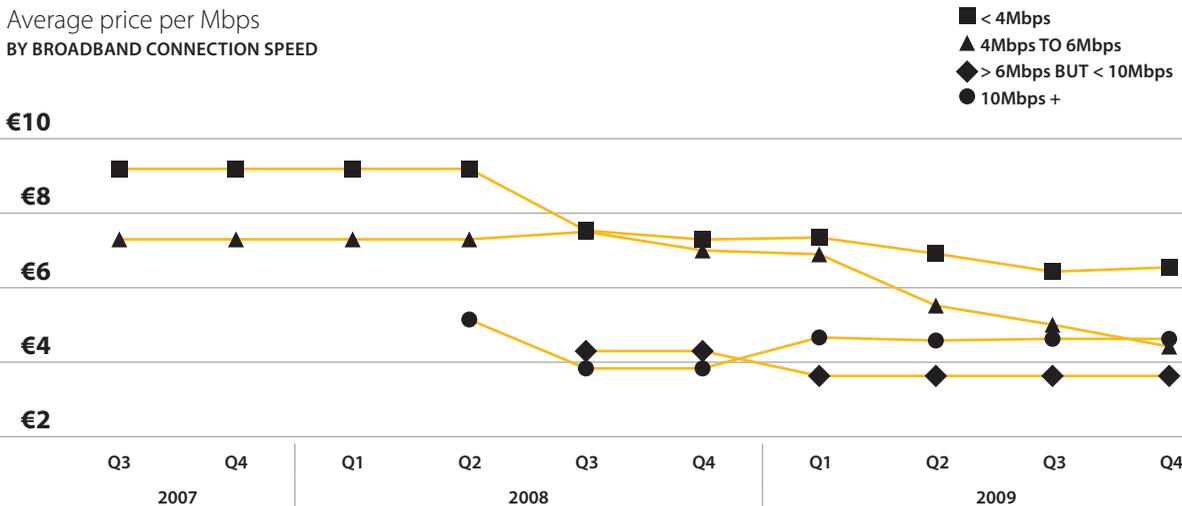
The declines registered last year can be attributed to the launch of new broadband plans with faster speeds and higher download allowances (some plans even becoming unlimited), bearing the same price tag of phased-out plans, which were generally characterised by inferior speeds and tighter download limits. New plans have also been launched by wireless service providers, such as Vodafone (Malta) and SKY Telecom.

Local service providers regularly launched strategies designed to increase their subscriber base, such as by offering a variety of discounts and reductions to attract new customers to the network. In order to retain existent customers, service providers generally upgraded the download speed of their users for free, without introducing additional charges on the monthly payment fee.

When considering the average price of broadband per unit of download speed (Mbps) as a measure of how broadband Internet prices developed over the last few years, broadband connections with a download speed less than 4Mbps saw the average price per Mbps decline from €9.3 in Q3 2007 to €6.5 in Q4 2009.

The average price per Mbps for broadband connections with a download speed of 4Mbps to 6Mbps went down from €7.3 to €4.4 during the same period. The corresponding rate for broadband connections with a download speed exceeding 6Mbps but less than 10Mbps also declined from €4.3 in Q3 2008 to €3.6 in Q4 2009. The average price of broadband per Mbps for those broadband connections with a download speed of 10Mbps, or more, remained somewhat stable in 2009 at €4.6.

Average price per Mbps  
BY BROADBAND CONNECTION SPEED

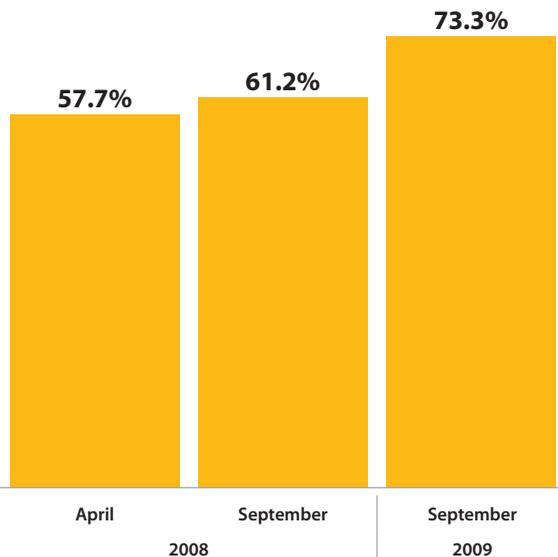


#### 4. eCommerce Activity

The latest MCA eCommerce survey carried out in September 2009 underlines that 73.3% of respondents, which is equivalent to 43.3% of the sample size, claimed to have made use of the Internet for the purposes of purchasing online.

The majority of these (nearly 95%) carried out at least one online purchase in the previous six months. In more than a third of those instances where an online purchase has been recorded, expenditure varied between €25 and €120. Payment by PayPal and credit card were the most popular online payment methods highlighted by respondents.

eCommerce Activity  
INTERNET USERS CITING ECOMMERCE AS A REASON  
FOR MAKING REGULAR USE OF THE INTERNET



#### 5. Malta and the EU

2009 was another vibrant year for the broadband sector in Malta, as the country managed to consolidate on the positive outcomes registered in the preceding year. A 2.9% growth rate was achieved in terms of fixed broadband penetration, following a 7% increase in 2008.

At 26.8%, Malta's fixed broadband penetration surpassed the EU average of 24.8%, to rank in the 10th place in terms of absolute penetration across the EU.

In terms of percentage of households using a broadband connection in 2009, Malta ranked at the 9th place of all EU Member States, down by two places from 2008, despite the increase in fixed broadband penetration.

At 63%, in 2009, Malta's percentage of households using a broadband connection was only seven percentage points lower than the EU average. Malta's figure for 2008 stood at 55%.

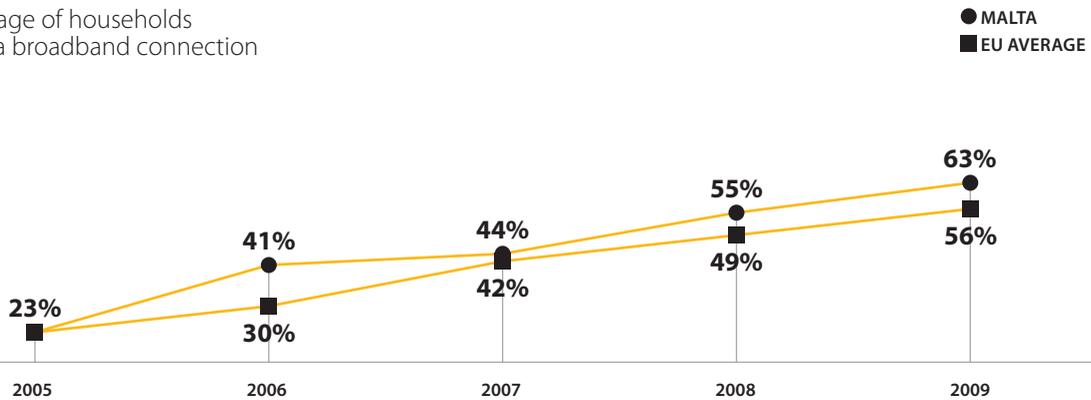
Malta also ranked amongst the 2009 forerunners in terms of the percentage of enterprises with fixed broadband access. At 93%, Malta surpassed most other EU countries except for Spain and Finland, both at 94%.

In terms of Internet usage in 2009, around 55% of surveyed individuals (aged 16 to 74) reported making regular use of the Internet, compared with an EU average of 60%. 34% of these reported that they made use of the Internet for ordering goods or services in the previous twelve months. This result is lower but close to the EU average at 37%.

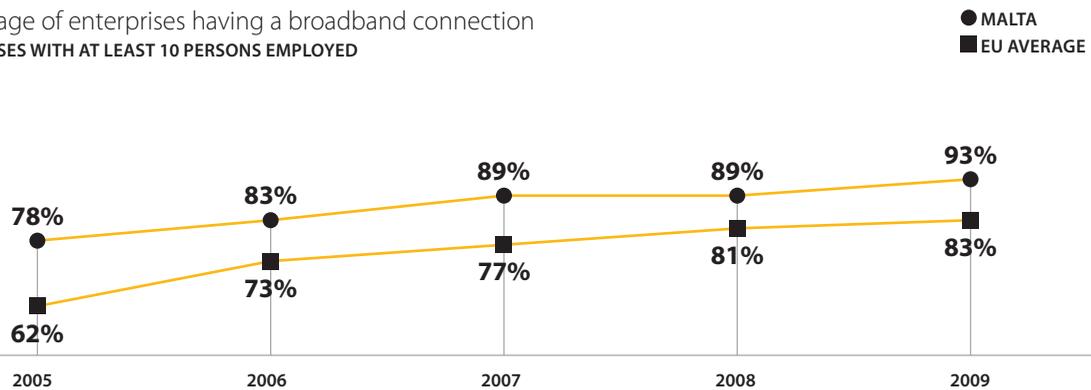
As at the end of 2009, over 82.5% of all broadband connections in Malta had a broadband speed of 4Mbps or more but less than 10Mbps. This is significantly above the EU average, as only around 60% of all EU broadband connections have a broadband speed exceeding 2Mbps

but lower than 10Mbps. However, the percentage of users in Malta with a broadband speed equal to or exceeding 10Mbps accounted for 9.6% of the total by the end of 2009, which is lower than the EU average.

Percentage of households having a broadband connection



Percentage of enterprises having a broadband connection  
ENTERPRISES WITH AT LEAST 10 PERSONS EMPLOYED



## PAY TV

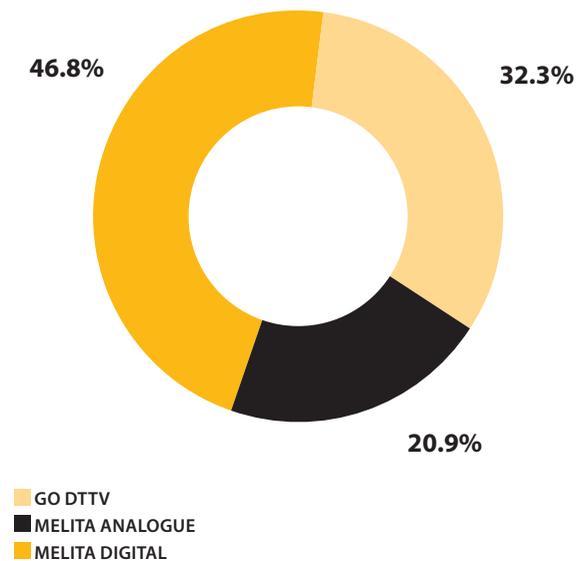
The Pay TV sector registered significant growth during last year both in terms of digital subscriptions and also in terms of content. In this regard, service providers launched higher-value packages and sought ways to increase consumption of add-on services to existent TV packages. Service providers also pursued aggressive quad-play strategies. All these efforts proved to be effective in driving the uptake of digital Pay TV.

### 1. Subscriptions and Market Shares

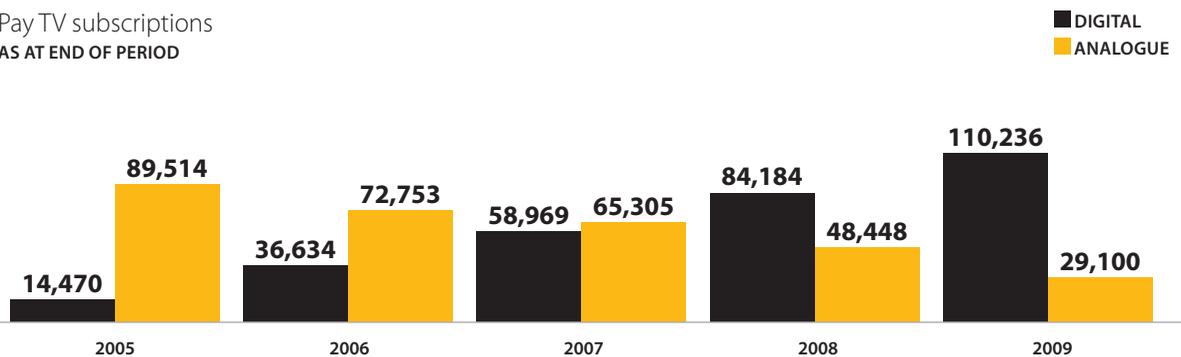
The number of analogue Pay TV subscriptions continued to decline. As at the end of 2009, their number amounted to 29,100. This figure is 39.9% lower than that recorded as at the end of 2008.

All analogue Pay TV connections are Melita subscriptions, which is currently phasing out this Pay TV platform so that existent connections are switched to digital. Analogue Pay TV subscriptions as at the end of the period under review accounted for 20.9% of the overall Pay TV subscriber base.

2009 market shares, by operator  
IN TERMS OF PAY TV SUBSCRIPTIONS



Pay TV subscriptions  
AS AT END OF PERIOD



The number of digital Pay TV subscriptions increased from 84,184 as at the end of 2008 to 110,236 as at the end of 2009. Melita accounted for 59.2% of the latter figure, or 65,265 digital cable subscriptions, whilst GO accounted for the remaining 40.8%, or 44,971 digital terrestrial (DTTV) subscriptions.

As at the end of 2009, nearly 46,500 Pay TV subscriptions, or 33.4% of the total, were part of a multiple-play offer. Pay TV connections purchased as part of a quad-play bundle amounted to 30,639.

## 2. Pay TV Package Tariffs<sup>19</sup>

Tariffs for Pay TV packages are generally structured according to the number of channels featuring under each respective package.

In this regard, six Pay TV categories have been identified.

Only one analogue Pay TV package, including 24 channels, was offered between 2007 and 2009. This package, offered by Melita, was priced at €7.76 during the period under review.

On the other hand, the average tariff for Pay TV packages listing not more than 24 digital channels increased from €2.33 in 2007 and 2008, to €5.05 in 2009. However, this increase in the average tariff is due

to a new package launched by Melita in 2009, priced at €7.76, as opposed to GO's long-standing package, priced at €2.33.

No price movements were observed in 2008 and 2009 for the category including Pay TV packages listing 25 to 49 channels. This category is characterised by GO's Silver+ package, including 37 channels and priced at €13.98<sup>20</sup>.

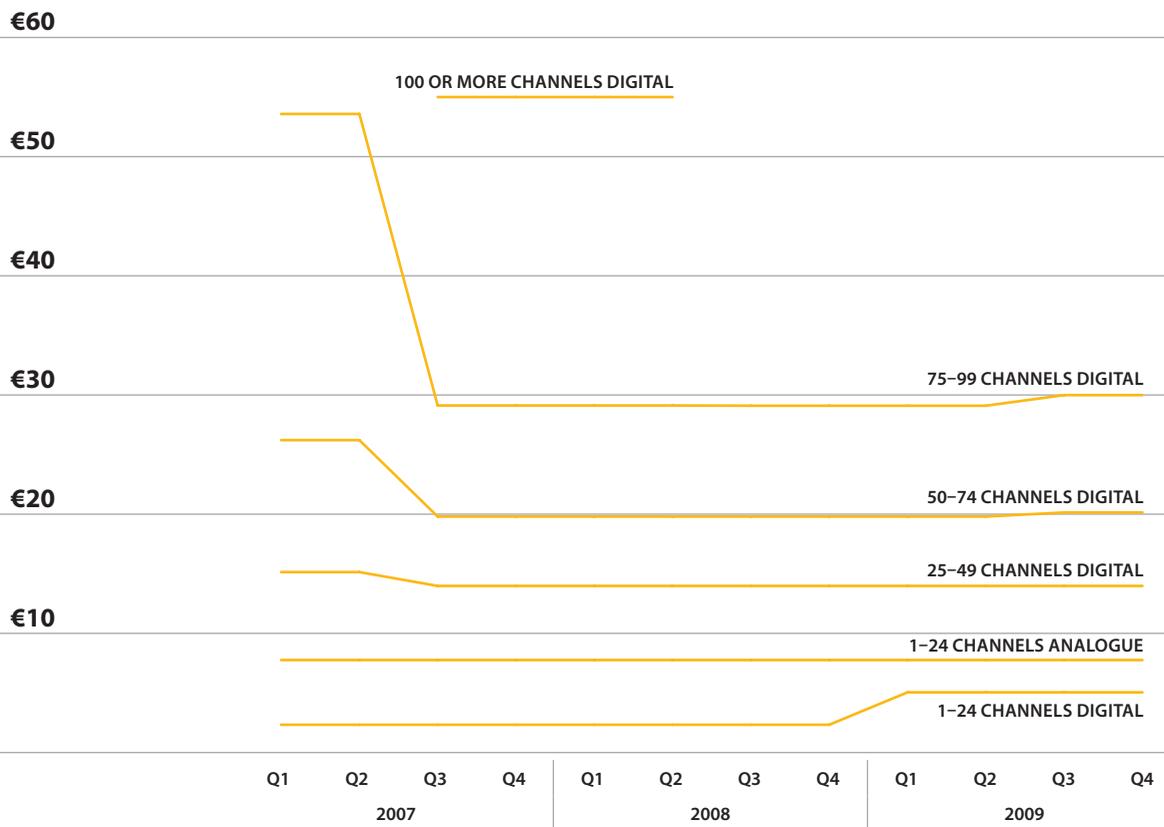
The category including Pay TV packages listing 50 to 74 channels recorded a slight increase in the average tariff rate for the second half of 2009, up from €19.80 to €20.14, but with new channels introduced throughout the year. This increase is the result of a slight upward movement in Melita's Pay TV package featuring under the said category.

In 2009, only one offer by Melita featured under the category of Pay TV packages listing 75 to 99 channels. In this regard, a slight increase in the average tariff rate has been observed in the second half of 2009, up from €29.10 in the first half to €29.99, although the channel line-up has been changed and new channels introduced throughout the year. Last year, no offers featured under the category including Pay TV packages with 100 or more digital channels.

19. All rates featured below are inclusive of VAT.

20. Tariff is inclusive of network access fee.

Average market rates for Pay TV packages  
 BASED ON ACTUAL RATES (PUBLICISED BY OPERATORS)



## POSTAL SERVICES

Postal activity remains somewhat constrained by competing electronic communications services, which have created their own demand for the delivery of correspondence. However, some postal mail streams are still expected to grow, such as cross border mail, as the evolution of eCommerce and the emergence of new service requirements foster new business opportunities.

### 1. Postal Activity

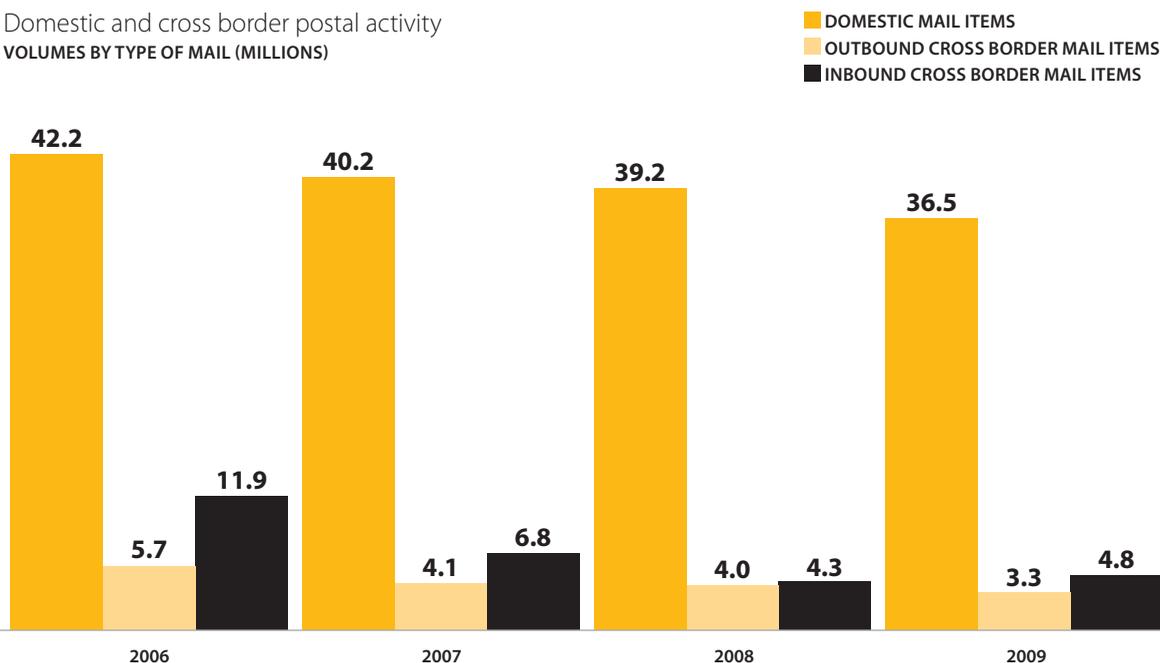
Postal activity in 2009 suffered a decline when compared to 2008. This decline is mainly due to developments

under one particular mail item heading, namely letter post items, which recorded a fall from 19.9 million items delivered in 2008 to 15.9 million items delivered last year.

On the other hand, postal activity increased for the remaining mail item headings, namely bulk mail items, registered mail items and parcel mail items.

The number of bulk mail items delivered in 2009 amounted to 27.9 million, up by nearly 5% when compared to the previous year.

Domestic and cross border postal activity  
VOLUMES BY TYPE OF MAIL (MILLIONS)



Another increase was recorded for registered mail items, a heading for which activity increased by 11.1%, from 0.8 million in 2008 to approximately 0.9 million in 2009.

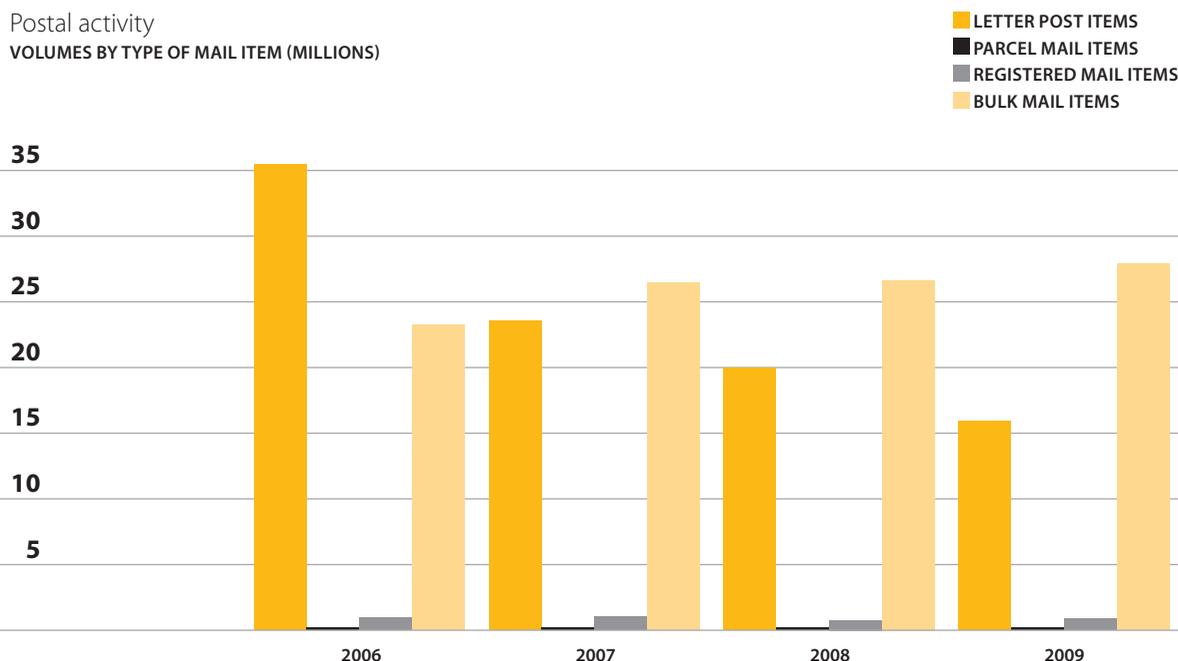
The number of parcel mail items delivered in 2009 also increased when compared to 2008, from 70,099 items to 82,165 items.

When categorised by type of mail stream, domestic postal activity declined from 39.2 million mail items delivered in 2008 to 36.5 million items in 2009. During the same period, outbound cross border mail also

declined from approximately 4 million items to 3.3 million items. On the other hand, inbound cross border mail activity increased from 4.3 million items to 4.8 million.

Quality of Service (QoS) standards have been set by the MCA to monitor how the Universal Service Provider (USP) is performing with respect to the delivery of local ordinary mail (QoS target for D+1<sup>21</sup> set at 93%), bulk mail (QoS target for D+1 set at 93%) and local registered mail (QoS target for D+1 set at 97%). In 2009, Maltapost plc surpassed all the QoS targets set for the above-mentioned mail items.

Postal activity  
VOLUMES BY TYPE OF MAIL ITEM (MILLIONS)



21. D+1 is defined as the mail quality standard that the provider should reach and which represents one working day from the day of deposit to delivery to addressee.

## 2. Postal Rates in Malta and the EU

Local postal rates have been relatively stable over the last few years. This is confirmed by the annual comparative analyses undertaken by the Free and Fair Post Initiative (FFPI) and Deutsche Post.

According to figures released by FFPI<sup>22</sup>, Malta's standing in terms of the nominal stamp price for domestic letter items features as the most favorable in Europe and is significantly lower than the EU average.

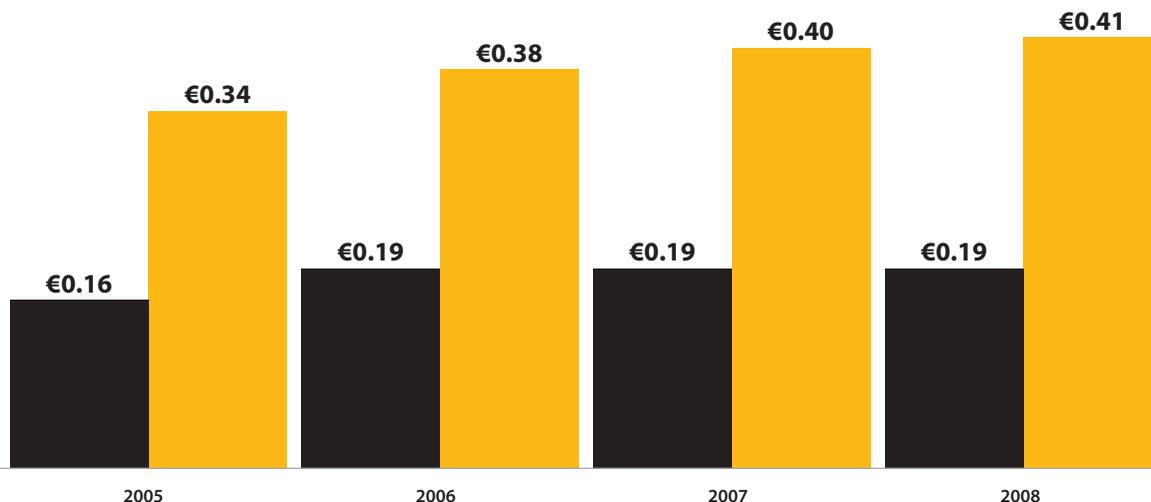
A slight increase in the nominal stamp price in Malta for domestic letter items (not weighing more than 20 grams<sup>23</sup>) has been registered in 2006, when the price increased from €0.16 to stabilise at €0.19 in the following years.

Although FFPI data for 2009 is not yet available, Malta's stamp price for domestic letter items is expected to feature well below the EU average for this particular year, as no changes have been registered in the price quoted above.

Nominal stamp prices for domestic letter items in Malta and the EU  
MAXIMUM LETTER WEIGHT, 20GRMS

(SOURCE: FFPI)

■ MALTA  
■ EU AVERAGE



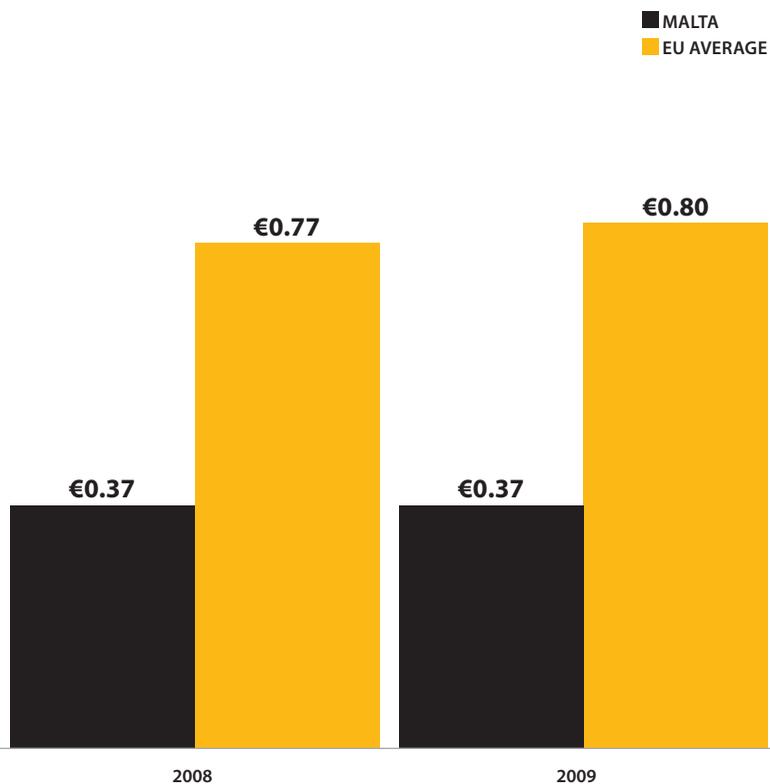
22. Figures quoted here are exclusive of VAT.

23. The reserved area refers to mail weighing up to 50 grams and/or costing less than two and a half times the basic tariff, i.e. €0.19. Only the USP can operate within this area. The rationale behind the reserved area is that it compensates the USP for taking on the uneconomic burden of universal services. The reserved area will be removed following the full liberalisation of the sector at the end of 2012.

In terms of nominal stamp prices for letter mail items to Europe, Deutsche Post's European Letter Price comparison<sup>24</sup> underlines that Malta stood at the bottom of the 2009 price ranking, with a stamp price of €0.37, well below the EU average of €0.80.

The report identifies Malta as the country benefiting from the cheapest stamp price for letters directed to EU countries. It also reports that, year-on-year, 11 EU countries registered an increase in the stamp price for letters directed to other EU countries.

Nominal stamp prices for letter mail within Europe in Malta and the EU  
(SOURCE: DEUTSCHE POST)



24. Figures quoted here are exclusive of VAT.

# STRATEGIC OBJECTIVES

## AND KEY PERFORMANCE INDICATORS

During 2009, the MCA continued to consolidate the new aspects of its role with regard to promoting information society services in Malta. Furthermore, the necessary momentum was maintained in its more traditional areas of operation, that is, regulation of the electronic communications, postal and eCommerce environments.

Within the electronic communications sector, a number of market developments took place in 2009 as will be highlighted in the coming sections. However of most significance were the advent of a third mobile operator and the deployment of two undersea international links. Despite these positive developments, the year also brought with it the termination of operations by a number of service providers with the consequence of most retail services today being provided by infrastructure-based undertakings. Nevertheless, most markets remain populated by more than one undertaking although not necessarily invoking an effectively competitive market. For the first time, 'ex ante' regulation was rolled back from a number of markets, on the basis of fresh findings from a second round of market analyses. More detail on the market analysis carried out is available on pages 86 and 91 of this report.

This section is intended to provide an overview of the main activities during 2009 in the attainment of the Authority's strategic objectives and the related key performance indicators.



# ELECTRONIC COMMUNICATIONS

## STRATEGIC OBJECTIVE 1: REGULATING AN ELECTRONIC COMMUNICATIONS ENVIRONMENT THAT IS CAPABLE OF SUSTAINING COMPETITION AMONG EXISTING PROVIDERS WHILST ENSURING EASE OF ENTRY TO NEW UNDERTAKINGS.

Competition is fundamental in ensuring a sustainable electronic communications sector in which undertakings continue to be willing to invest in the development of new and innovative services. Ensuring that barriers to entry remain low, is essential. The Authority therefore continued to ensure, within the boundaries delineated by law, that all service providers have the right to access available networks and reach interconnection agreements with other players in the market. Reference Interconnection Offers (RIOs) were mandated where necessary and were supplemented by mechanisms such as regulatory accounting, accounting separation and price control. The MCA also reviewed the Local Loop Unbundling (LLU) offer as a means of promoting further competition in the sector.

Furthermore, the ongoing management of numbers and number portability, a lightweight general authorisation scheme and effective access to radio spectrum also contributed towards ensuring that barriers to entry remain low.

Frequency spectrum has become an essential component in the development of infrastructure-based competition. In line with the MCA's strategic framework for the management of radio spectrum, the Authority examined how the development of a secondary market for spectrum could be developed by driving forward the process of spectrum liberalisation and the facilitation of trading. The Authority also consulted on the introduction of spectrum licences for test and trial purposes with the objective of simplifying access to spectrum for this purpose.

The MCA continued with the second round of market reviews and, where necessary, implemented a number of remedies such as transparency, price control and accounting separation.

## OUTPUTS

### 1. Regulatory Remedies

#### **Interconnection rates reviewed and reduced further:**

As at June 2009, the local Mobile Termination Rates (MTR) stood at  $\pounds 0.0962$ . In November, this rate was reduced by 10% and currently stands at  $\pounds 0.0866$ . This is slightly above the EU average which stood at  $\pounds 0.0855$ <sup>25</sup>. Mobile termination rates will be reduced further in mid-2010. With regard to Fixed Termination Rates (FTR), the average FTR was maintained at the current level but wholesale peak, off-peak and night tariffs were updated with retail price gradients that are reflective of current traffic patterns. This translated into a fixed termination interconnection peak rate of  $\pounds 0.00833$  per minute, that is, 3% lower than the corresponding EU weighted average rate of  $\pounds 0.0086$  per minute as stated in the 14th Progress Report on the Single European Communications Market 2008.

**Interconnection strategy reviewed:** In November 2009, the MCA published a consultation to consider the regulatory strategy of fixed and mobile wholesale termination rates over the short to medium term. A decision is expected to be published by the MCA in Q2 of 2010.

25. 14th Progress Report on the Single European Communications Market 2008 published by the European Commission.

**Accounting separation decision reviewed:** This decision deals with the requirements imposed on operators designated as having significant market powers in the fixed and mobile markets and having accounting separation obligations.

**Review of local loop unbundling:** A public consultation was issued aimed at proposing a number of improvements targeted at the processes, Service Level Agreements (SLAs) and the general terms and conditions of the Reference Unbundling Offer (RUO) of GO plc.

**Number portability:** Since its launch in April 2006, this service, which facilitates switching service provider, continued to be popular with the number of mobile portings reaching 59,630 in 2009 alone, whilst that for fixed telephony reached 3,904. Given the developments in the mobile market during 2009, the MCA updated the ordering process specification to cater for instances when there are extraordinary increases in number portability authorisation requests. These are most likely to occur during the first few days whenever a new

service provider enters the market. During the latter part of 2009, the MCA also consulted with industry players to review the number portability wholesale charges.

**Framework for premium rate services:** A process for the assignment and implementation of short codes, ensuring harmonisation of such resources amongst telephony operators, was established. The Authority also looked into the publishing of a framework for premium rate services which is earmarked for publication in early 2010.

## 2. Market Analysis

During 2009, the MCA commenced its second round of market reviews, building on the work and experience gained throughout the first cycle.

The following market review related activities were undertaken during 2009:

### 2009 MARKET REVIEW RELATED ACTIVITIES

Market	Consultation	Decision
Retail fixed calls services including national and international calls		March 2009
Wholesale mobile call termination services	March 2009	November 2009
Wholesale fixed call origination	May 2009	Expected Q1 2010
Retail fixed access services	May 2009	Expected Q4 2010
Wholesale fixed call termination services	December 2009	Expected Q2 2010

### 3. Spectrum Management

**Management of available spectrum:** During 2009, there were no new assignments of spectrum for electronic communications services. On the other hand, one of the licences for the provision of fixed broadband services, based on spectrum in the 3.5 GHz band, was relinquished, resulting in the related spectrum becoming available for reassignment. A public consultation on the assignment methodology, for this spectrum and spectrum in the 3.6 – 3.8 GHz band, was carried out during this year.

**Radiocommunications licences review:** A complete review of the current radio links licensing regime was undertaken with the aim of incentivising more efficient use of spectrum. The process, which will include legislative amendments and new licensing fees, is to be concluded in 2010.

**Review of National Frequency Plan (NFP):** The Electronic Communications (Regulation) Act requires the MCA to secure the efficient use of radio frequencies. The NFP is the instrument which determines the allocation of radio frequency spectrum in Malta and therefore establishes which radio services can operate in particular frequency bands. This was reviewed in 2008 and led to proposals to Government to update the plan to take into account decisions agreed at the last International Telecommunications Union (ITU) World Radiocommunication Conference (WRC-07) and a number of decisions of the European Commission. The process is intended to further align national spectrum allocations with those in the European Common Allocation table of the European Conference of Postal and Telecommunications Administrations (CEPT). This review process is still ongoing and is expected to be completed in 2010.

## KEY PERFORMANCE INDICATORS

### AVAILABILITY OF UPDATED INTERCONNECTION AGREEMENTS, REFERENCE INTERCONNECTION OFFERS AND COST ORIENTED CHARGES WHERE THESE ARE REQUIRED

GO plc's RUO reviewed in November 2009 – Decision expected in early 2010.

Mobile termination rates reduced by 10%, reaching €0.0866 as at June 2009.

Fixed termination rates stand at €0.00833 – 3% lower than the EU average of €0.0086.

RIO in place, shortening interconnection timeframe.

Relevant interconnection agreements in place, with no major issues faced during 2009.

No cost orientation in broadband – wholesale broadband access market declared competitive.

### ELECTRONIC COMMUNICATIONS AUTHORISATIONS DURING 2009

Public Communications Network	Publicly Available Telephone Service	Radio & TV Distribution Service	Other Public ECS <sup>26</sup>	Non-Public ECS	Private EC Networks and/or Services	Terminated Authorisations <sup>27</sup>
1	3	0	2	1	1	5

26. ECS: Electronic Communications Services.

27. 4 ISPs; 1 MVNO.



## MOVEMENTS IN NUMBER AND VARIETY OF MARKET PLAYERS

Fixed Telephony	Mobile Telephony	Broadband	Radio & TV Distribution
Key markets remain in multi-player mode			
<b>5 service providers offering fixed telephony services.</b>	<b>3 mobile network operators and 1 Mobile Virtual Network Operator (MVNO).</b>	<b>3 vertically integrated undertakings<sup>28</sup> and 11 third party service providers.</b>	<b>2 service providers.</b>
	Launch of Melita 3G network, offering national coverage.	2 underwater international links, Melita and GO plc.	
	1 MVNO terminates operations.	1 new WiMax network, GO plc.	
	3 new notifications received for new undertakings in the mobile sector. <sup>29</sup>	4 ISPs terminate operations.	

## MARKET SHARES

Fixed Telephony	Mobile Telephony	Broadband	Radio & TV Distribution
In terms of subscribers GO plc and Melita plc collectively hold 99% of the market share. Melita's market share continued to increase steadily, whilst smaller operators have not made any progress.	The entry of Melita Mobile as a new mobile operator decreased the market share of the main mobile operators however Vodafone (Malta) plc and GO Mobile still share the larger part of the market with a total market share of 93%, as opposed to a total of 98% in 2008.	Concentration of market share between two operators became stronger during 2009, increasing from 89% to 94%. GO plc took over a number of subscribers following the termination of operations by four service providers.	GO plc's market share increased considerably, reaching 32% in 2009 as opposed to 24% in 2008.

28. The three main operators, in fact, offer various bundled packages on the market.

29. In addition, a further four notifications were received for the provision of electronic communications services.



**NEW SERVICE OFFERINGS**

Fixed Telephony

Mobile Telephony

Broadband

Radio & TV Distribution

**Wholesale**

Roaming agreement reached for inflight mobile communication on board aircrafts.

**Retail**

Subscriptions for bundled offers increased from nearly 35,000 as at the end of Q1 2009 to 48,000 as at the end of Q4 2009. There were 33 bundled offers, including double, triple and quad-play services, take-up of which amounted to 33% of households.

50 Mbps broadband offering introduced.

Cable operator announces planned launch of HDTV services in 2010.

Mobile Internet and data increased from 3.6 Mbps to 7.2 Mbps (3.5G/HSDPA).

ADSL users benefitted from an increase from 2Mbps to 4Mbps, at no extra cost.

Cable users benefitted from an increase in minimum speed from 2Mbps to 5Mbps.

## PRICE MOVEMENTS

### Fixed Telephony

### Mobile Telephony

### Broadband

### Radio & TV Distribution

Overall, no price increases were detected in any service offering. Retail bundled offers continue to make it difficult to monitor individual price movements, but, overall, prices are decreasing and the price-quality ratio increasing.

Fixed termination rates reduced to 3% below EU average.

Mobile termination rates reduced by 10%.

Broadband download limits and speeds continue to increase.

Number of channels increased.

Various ongoing promotional activities on the retail fixed telephony front.

Reductions in international roaming prices, particularly with regard to SMS and other data services.

Reduction in prices of mobile broadband monthly plans.

Process of digital switchover intensified.

Various ongoing promotional activities on the retail mobile telephony front.

## STRATEGIC OBJECTIVE 2: ENSURING THAT ELECTRONIC COMMUNICATIONS UNDERTAKINGS PROVIDE A TRANSPARENT, VALUE-FOR-MONEY SERVICE TO USERS WHILST ADHERING TO INCUMBENT SOCIAL OBLIGATIONS.

The Authority's second strategic objective strongly focuses on consumer-centric activities and ties in well with the objective outlined previously. A competitive environment generates improvements and benefits to consumers in terms of prices, range and choice of products, services and service providers, not to mention better quality of service. Competition, the advancement in technology and the resultant innovative products and services generate increased consumer demand and expectations that cannot be ignored from a regulatory perspective.

On this note, the MCA continued to strengthen its consumer empowerment function and carried out a number of initiatives, including an intensive information campaign with regard to the rights of users of electronic communications services and service providers' obligations. The campaign also touched upon aspects relating to how best to select service provider, the range of products and services available on the market and what to look out for in service contracts. Furthermore, the Authority carried out a thorough review of all existing consumer contracts in the electronic communications sector to ensure that these are compliant with the service providers' obligations at law.

On the regulatory front, considerable effort was put into reviewing the universal service obligations in the electronic communications sector, taking into consideration the developments in competition and the changing needs of consumers.

The MCA continued its monitoring exercise regarding radio spectrum and implemented corrective measures, where necessary, to ensure that spectrum remains free from interference to enhance the end-user experience. To this end, the MCA also continued with its Electro-Magnetic Frequency (EMF) monitoring programme to ensure that radiation levels remain in conformity with the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines.

In tandem with the European efforts to switch to digital terrestrial transmissions, the Government set up a steering committee, chaired by the MCA, to oversee the migration of current analogue free-to-air transmission to digital technology.

The following is a list of key outputs resulting from the work streams outlined above.

### OUTPUTS

**Customer Care function strengthened:** A more streamlined consumer complaint handling procedure was implemented during 2009 with a total of 311 complaints received, out of which 277 were settled and 34 were referred to alternative entities.

**Consumer guidelines published:** The various consumer guides published in 2008 relating to mobile and fixed telephony, Internet services, shopping online and TV distribution services were updated to reflect the current service offerings and other market changes and consolidated into one comprehensive booklet.

Distribution to every household across Malta and Gozo is anticipated to take place in early 2010.

**Digital TV migration continues to show positive uptake:** The number of digital pay TV subscriptions increased from 84,184 to 110,236 as at the end of 2009. This is an increase of 23.6% over the corresponding period.

**Review of the Universal Service Obligations (USO):** A thorough review was undertaken, culminating in a consultation paper that was issued in May 2009. This elicited a strong reaction, both from the industry and the general public. The MCA commissioned an independent study, primarily to obtain a deeper insight into the public's perceptions on the printed telephone directory. It is anticipated that a final decision in this regard will be published in Q2, 2010.

**Quality of Service (QoS) of broadband services:** During 2009, the MCA initiated a new project regarding the quality of broadband services. The project consists of two phases, the first of which is anticipated to be concluded in 2010, following a public consultation. This phase aims to provide broadband subscribers with a set of parameters which are recognised by the Authority and the broadband service providers. These parameters will enable users to assess QoS. During the second phase of the project, the Authority is planning to run a QoS measurement campaign.

**EMF monitoring:** 125 sites were tested, including mobile communications base stations, BWA base stations, broadcasting transmitters and other sources of EMF. Repeat tests were also carried out on EMF sources tested in previous years, to ensure continued compliance with the pertinent regulations. A number of on-demand EMF measurements were carried out following requests from the general public.

**Radio monitoring and technical support:** During the year under review, the MCA further developed its spectrum monitoring plan, carrying out several detailed radio monitoring exercises particularly in highly utilised frequency bands. This exercise provided the necessary information to ensure that all the licensees in a particular frequency band were operating within the parameters as laid down in their licence. In addition, the MCA provided technical support to the Broadcasting Authority in relation to broadcasting licences with over thirty interventions linked to monitoring of conformance to licence conditions, primarily of community radio stations.

**TV switchover programme management well in progress:** Following the publication by Government, in February 2009, of a Policy and Strategy for Broadcasting that meets General Interest Objectives (GIO), a Digital Switchover Committee (DSOC) was set up to oversee a number of initiatives in this regard. These include the drawing up of the licence for the frequency reserved for GIO broadcasting; drafting of the updates to the Broadcasting Act to reflect the legal amendments identified in the policy and strategy document and a revised broadcast content licensing process to be introduced by the Broadcasting Authority. The MCA offered technical expertise to the Broadcasting Authority related to the set-up and management of the general interest DTTV network and was also commissioned to implement the related public information communications campaign. To this end, the Authority undertook an in-depth market research exercise, the results of which were used to draft a comprehensive communications strategy intended to inform the general public on all matters related to the digital switchover.

**International connectivity contingency agreements and regulations in place:** International Connectivity (Continuity of Operation) Regulations were brought into force in January 2009.

## KEY PERFORMANCE INDICATORS

### PUBLICLY AVAILABLE INFORMATION RELATIVE TO EXISTING QoS PARAMETERS – MOVEMENT IN THE USP'S FIXED TELEPHONY PERFORMANCE (GO PLC) (SOURCE: GO PLC)

	Measure	Statistics 2008	Statistics 2009
Supply time for initial connection	Time for fastest 95%	8.58 days	20.58 days
Fault rate per access line	Reports per 100 lines	1.43 reports	1.35 reports
Fault repair time	Average repair time	48.40 hours	54.45 hours <sup>30</sup>
Operator services	Mean time to answer	25.4 seconds	15.33 seconds
Directory Enquiry Services	Mean time to answer	9.73 seconds	15.22 seconds <sup>31</sup>
Coin & card operated public pay telephones	% in full working order	99.81%	99.87%

### PERCENTAGE OF COMPLAINTS DEALT WITH SATISFACTORILY

The Authority received 311 complaints during 2009, 89% were dealt with satisfactorily and 11% were referred to alternative entities. There were no unresolved cases at the end of 2009.

30. Calendar hours, including also major cable faults.

31. Queued time + ringing time.

## STAKEHOLDERS' PERCEPTION OF OVERALL QUALITY OF SERVICE PROVIDED

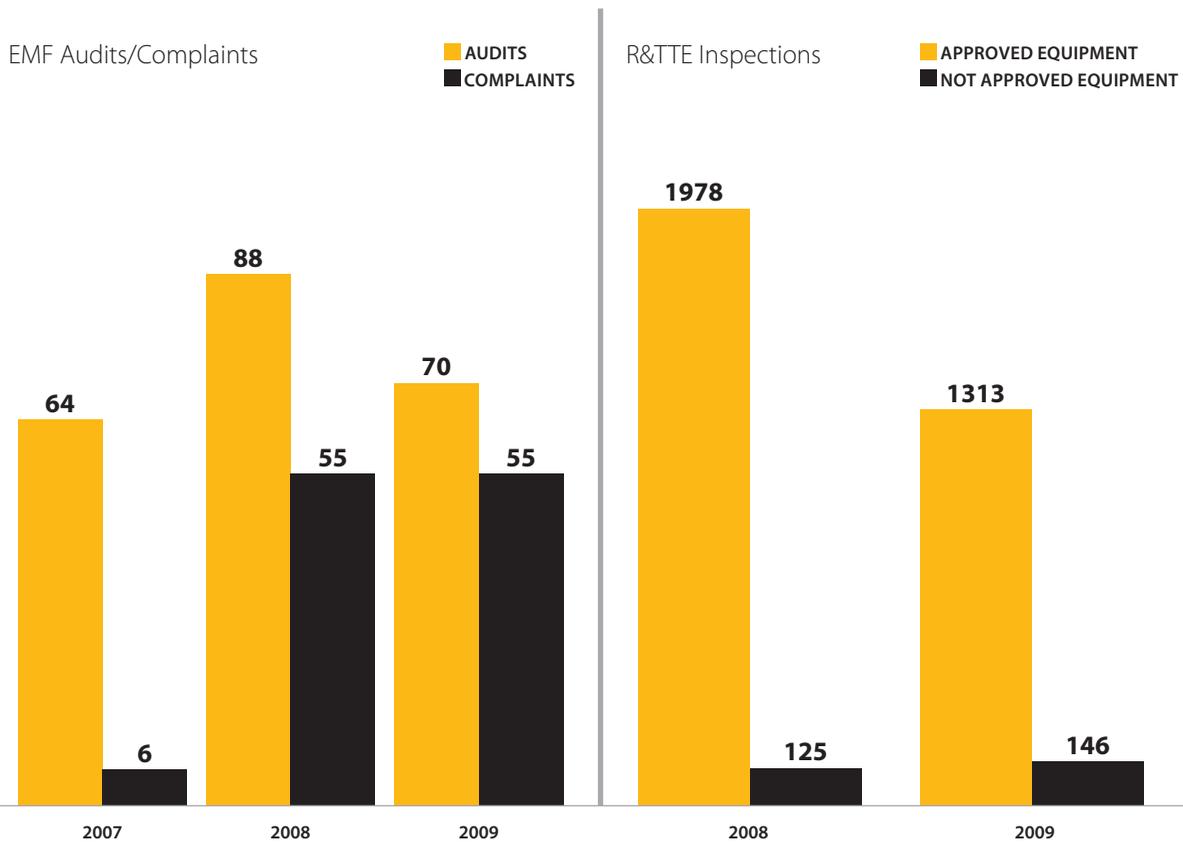
Fixed Telephony	Mobile Telephony	Broadband	Radio & TV Distribution
77.5% of those having 1 connection are satisfied with the service.	92% are satisfied with the services although there was a reported decrease of 6% since 2005.	75% of users believe that price is reasonable, an increase of 46% from 2005.	56% of analogue cable subscribers are generally satisfied whilst 30% are neither satisfied nor dissatisfied.
85.7% of those having 2 connections are satisfied with the service.	6.7% are not satisfied with their current service.	23% of users believe that services are too expensive, a decrease of 38% from 2005.	58% of digital cable subscribers are generally satisfied whilst 29.94% are neither satisfied nor dissatisfied.
96% claim it is not difficult to switch between operators.	82% believe to have sufficient information on the services available and pricing schemes.	72.2% believe service reliability to be the most important feature when selecting an ISP whilst 48.7% believe price to be the determining factor.	69.79% of DTTV subscribers are generally satisfied whilst 25.54% are neither satisfied nor dissatisfied.
26.5% believe on-net call rates are cheap. 9.8% believe on-net calls to be reasonably priced, while only 1.3% believe on-net calls to be expensive.	Only 25% know the cost of a 1 minute call, a significant decrease of 16% since 2005.	88.4% are satisfied with their respective connection. 11% are not fully satisfied and only 0.5% are not satisfied at all.	6.45% of analogue cable subscribers believe their service to be very expensive, 36.77% believe the service to be expensive whilst 51.94% believe it to be neither expensive nor cheap.
10% believe FTM call rates are expensive while only 3.6% believe them to be reasonable.	46.2% believe that mobile call rates are expensive whilst 44.6% believe them to be reasonable.		14.78% of digital cable subscribers believe their service to be very expensive, 40% believe the service to be expensive whilst 42.61% believe it to be neither expensive nor cheap.
44.8% believe overseas calls to be reasonably priced, an increase of 10% from 2007. 7.5% believe overseas calls to be expensive, a decrease of 2% from 2007.	93% claim it is not difficult to switch between operators.		5.03% of DTTV subscribers believe their service to be very expensive, 21.11% believe the service to be expensive whilst 58.79% believe it to be neither expensive nor cheap. 13% consider services to be cheap.
			78.44% are not subscribed to premium rate channels.

## NUMBER OF SPECTRUM RELATED INSPECTIONS/SITE VISITS AND OUTCOMES

Service	Quantity (2008)	Quantity (2009)
EMF Measurements (planned)	88	70
EMF Measurements (non-planned)*	55	55
Radio and Telecommunications Terminal Equipment (R&TTE) notifications**	2,103	1,459
Interference complaints	39	34
Inspections of radio installations	285	197
Radio monitoring and technical support	28	96

\*resulting from specific requests received from the general public.

\*\*Number of notified radio products.

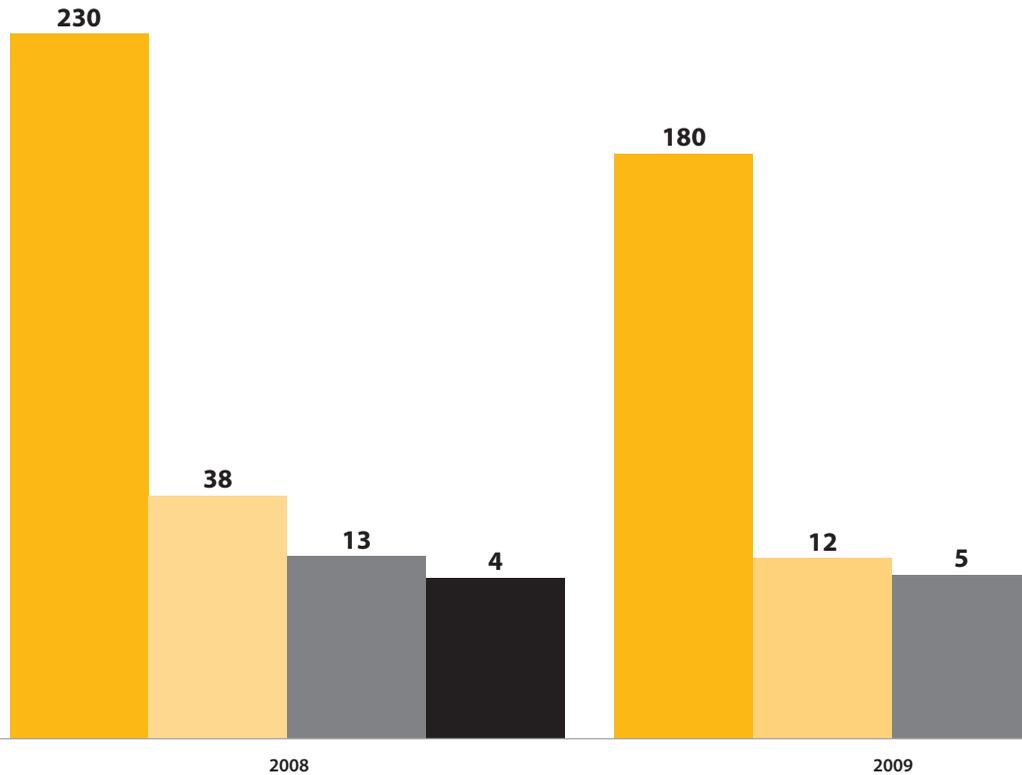


## INTERFERENCE INVESTIGATIONS

	2008	2009
Broadcasting	19	13
Private Mobile Radio	2	1
Maritime	4	1
Other services	14	19
<b>Total</b>	<b>39</b>	<b>34</b>

### Inspection of Radio Installations

■ PRIVATE MOBILE RADIO  
■ MARITIME  
■ BROADCASTING  
■ OTHERS



## STRATEGIC OBJECTIVE 3: CONTRIBUTING TO THE ONGOING DISCUSSION, AT AN INTERNATIONAL LEVEL, ON THE CONSISTENT DEVELOPMENT OF THE ELECTRONIC COMMUNICATIONS REGULATORY FRAMEWORK AND RELATED ISSUES.

The Authority operates within a regulatory framework that is set at a pan-European level. A considerable portion of the MCA's resources are devoted to participation in the development of the European frameworks applicable to the sectors regulated by the Authority. As a result, the Authority ensures that EU rules are applied in Malta in a consistent manner with the rest of the EU. Furthermore, despite limitations in terms of size and resources, the Authority remains in a position to contribute to the shaping of the international regulatory scenario. In doing so, the MCA is able to keep Malta's interests at the forefront of its participation in international activities. To this effect, the MCA continues to make a meaningful contribution in the various committees and workgroups that operate under the auspices of the EU, the Independent Regulators Group (IRG) and European Regulators Group (ERG), the CEPT and other relevant international organisations, whilst at the same time drawing valuable knowledge and expertise from them. The Authority also collaborates and cooperates with its counterparts on various regulatory issues. Consequently, the MCA is better equipped to carry out its role as adviser to Government on the international dimension of the electronic communications regulatory framework.

### OUTPUTS

#### **Review of the Electronic Communications Regulatory**

**Framework:** The regulatory framework for electronic communications consists mainly of five Directives

which entered into force in the EU in 2003. This framework establishes the rules applicable to the electronic communications sector, such as consumer rights; the authorisation regime to operate services, networks and spectrum resources; the rights and obligations of service providers; competition related processes and the rules for the provision of universal services. The framework is reviewed every three years so that it is kept in line with the fast-paced evolution of this sector. Following a consultation exercise, which started in 2006, the European Commission published a set of proposals in late 2007, with the aim of revamping this framework. The updated European Framework, as approved by the European Parliament and the Council of Ministers, was published in December 2009 and will come into force in the European Community by May 2011 at the latest.

During the said period, the MCA contributed to the adoption process at various levels. At a local level, the MCA regularly consulted with the varied stakeholders, including industry players and consumer entities. The Authority also provided continuous advice to Government regarding legislative texts debated by the Council of Ministers. The MCA also contributed to the related work carried out by the ERG.

## KEY OUTCOMES OF THE REVIEW OF THE EU ELECTRONIC COMMUNICATIONS FRAMEWORK

### 1. A new European Telecoms Entity – the BEREC

The current ERG, formally established by a Commission Decision, will be replaced by a new entity called the Body of European Regulators in Electronic Communications (BEREC) – now established by Regulation. BEREC is expected to improve the harmonised implementation of the framework and to this end will advise and assist the European Commission and the National Regulatory Authorities (NRAs). In contrast with ERG, BEREC will have a formal role in the framework with respect to a number of instances where the Commission has to consult BEREC before taking decisions which apply to NRAs. BEREC will be supported by an independent office.

### 2. Greater independence for NRAs

The independence of NRAs has been strengthened in order to ensure a more effective application of the framework and to increase their authority and the predictability of their decisions. Express provisions are to be made in national law to ensure that NRAs are protected against external intervention or political pressure. Rules will have to be laid down at law regarding the grounds for the dismissal of the head of the NRA. Furthermore, NRAs should have adequate financial and human resources to carry out the task assigned to them, including active participation in BEREC.

### 3. A somewhat stronger say of the Commission on competition remedies

Today the Commission can veto NRAs' market definition and dominance analysis in their review of the market for effective competition. With the new telecoms package, the Commission will be able to make recommendations on the remedies that NRAs propose to impose on operators.

### 4. Functional separation as a potential regulatory tool to overcome competition problems

The new framework introduces the concept of functional separation, the process where a vertically integrated operator, either on its own initiative or by legal obligation, establishes operationally separate business entities for its wholesale and retail business arms. This practice is put into place in order to ensure that the undertaking does not discriminate in favour of its retail arm against third party undertakings buying wholesale services from it. As a last resort, functional separation may be justified as a remedy where there has been persistent failure to achieve effective non-discrimination and where there is little or no prospect of infrastructure competition within a reasonable timeframe. Functional separation should improve competition by reducing the incentive for discrimination and by making it easier to verify and enforce compliance with non-discrimination obligations. Voluntary separation will also be formally allowed.

### 5. Encouraging competition and investment in Next Generation Access (NGA) networks

In fibre roll-out, balance is needed between investment incentives and competition. The new text of the legislation creates a certain balance between pursuing infrastructure-based competition, wherever possible and investment risks. The rules governing the sharing of network elements, such as ducts or in-building wiring between operators, are also updated by the reform. Besides improving competition and services for businesses and consumers, this will also help lower the overall costs of deploying NGA networks.



## KEY OUTCOMES OF THE REVIEW OF THE EU ELECTRONIC COMMUNICATIONS FRAMEWORK *CONTINUED*

### 6. More liberalisation of radio frequency use

Radio spectrum is a scarce national resource that needs to be managed well. Radio spectrum is used by countless types of applications affecting our daily lives. These range from the more easy-to-use and longer established applications, such as listening to the radio, television or using a mobile phone, to the more subtle and pervasive ones, such as remotely locking a car or using a satellite navigation system. The incredible growth of wireless technology to facilitate connection to the Internet at home and in the office also shows the popularity and usefulness of wireless communications. The new framework calls for more use of general authorisations in spectrum rather than the granting of individual rights of use (that is licences). Moreover, the new Framework introduces the new concepts of technology and service neutrality in the use of spectrum. Technology neutrality means that any available technology can be employed to provide a certain service in a particular frequency band. Service neutrality extends this concept, so that any service can be offered in a particular frequency band. A person or undertaking using a particular frequency, whether assigned to him or unlicensed, will be able to provide any service using any technology. The use of these is subject to certain exceptions like harmful interference, the protection of public health against EMF, technical QoS, efficient use of spectrum, safety of life and certain services of general interest, like broadcasting. Moreover, the concept of spectrum trading, that is, when an undertaking is able to lease or sell the spectrum it has been assigned, has been reinforced.

### 7. Better consumer information with regard to prices and terms & conditions

Contracts provided to subscribers should now include information on any conditions limiting access to services and applications. These include access to emergency services and caller location information and measures put in place to shape traffic. Subscribers should not merely be made aware of the duration of the contract, but also of any minimum usage required to benefit from promotional terms; any portability charges; any other charges due on termination of the contract, as well as on compensation and refunds if the specified quality levels are not met. It is now compulsory for undertakings to inform respective subscribers of their right to refuse having their personal data included in a directory and of the type of action that might be taken by the undertaking in response to security or integrity incidents. With reference to notifications sent to subscribers, upon modifications in the contractual conditions, NRAs will now have the power to specify their format so as to ensure transparency. Furthermore, the publication and provision of information is no longer imposed on Publicly Available Telephone Services (PATS) only, but on all public electronic communications services. Under the new rules, the maximum initial duration of a contract signed between a consumer and an operator or service provider will be no longer than 24 months. Service providers must also offer consumers the possibility of agreeing to a contract with a maximum duration of 12 months.

### 8. Improved consumer protection against personal data breaches and spam

European citizens' privacy has moved up the priority list in the new telecoms rules. Personal information related to names, email addresses, bank account information of the customers and data about every phone call and internet session, need to be kept safe from accidentally or deliberately ending up in the wrong hands. Therefore, when personal data is compromised it will now be mandatory for service providers and network operators to inform the authorities about security breaches affecting users' personal data. Operators must keep information about security so that authorities are able to supervise. This will increase the incentives for better protection of personal data by providers of communications networks and services. The provisions on spam have become more technology neutral. Those affected by spammers will be able to sue in court.



#### 9. Number portability within one day

Number portability is a key facilitator of consumer choice and effective competition and should be implemented with minimum delay, so that the number is functionally activated within one working day and the user does not experience a loss of service lasting longer than the said period.

#### 10. Protecting citizens' rights relating to internet access

Following the strong position of the European Parliament, the new framework now explicitly states that any measures taken by Member States regarding access to or use of services and applications through telecoms networks must respect the fundamental rights and freedoms of citizens, as they are guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the general principles of EU law. The debate between Parliament and Council has clearly shown that new, more modern and more effective ways to protect intellectual property and artistic creation, need to be found. The so-called 'three-strikes-laws' which, in these particular cases, could cut off Internet access after three 'offences', without a prior fair and impartial procedure or without effective and timely judicial review, will now be harder to adopt by member states, if at all.

#### 11. Net Neutrality

The equipment owned by ISPs contain powerful tools that allow them to manipulate the speeds at which internet data is transmitted over their network. They can, for example, discriminate between voice and 'peer-to-peer' communications. Even though traffic management may allow premium high-quality services (such as IPTV) to develop and can help ensure secure communications, the same techniques may also be used to degrade the quality of services to unacceptably low levels or to strengthen dominant positions in the market. Under the new EU rules, NRAs will have the powers to set minimum quality levels for network transmission services so as to promote 'net neutrality' and 'net freedoms' for European citizens. In addition, thanks to new transparency requirements, consumers must be informed – before signing a contract – about the nature of the service to which they are subscribing, including traffic management techniques and their impact on service quality, as well as any other limitations (such as bandwidth caps or available connection speed).

# KEY PERFORMANCE INDICATORS

THE MCA WILL EVALUATE, ON A PERIODIC BASIS, THE EFFECTIVENESS OF PARTICIPATION IN INTERNATIONAL FORA PARTICULARLY IN RELATION TO ISSUES CONCERNING MALTA'S INTERESTS.

List of EU Communications relevant to the Electronic Communications Sector Issued in 2009

<b>COM (2009) 64</b>	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Final evaluation of the implementation of the multiannual Community Programme on promoting safer use of the Internet and new online technologies.
<b>COM (2009) 78</b>	Communication from the Commission to the European Parliament pursuant to the second subparagraph of Article 251(2) of the EC Treaty concerning the common positions of the Council on the adoption of a Directive of the European Parliament and of the Council amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to and interconnection of, electronic communications networks and associated facilities and 2002/20/EC on the authorisation of electronic communications networks and services; a Directive of the European Parliament and of the Council amending Directives 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No. 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws; and a Regulation of the European Parliament and of the Council establishing the Group of European Regulators in Telecoms.
<b>COM (2009) 111</b>	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on mobilising Information and Communication Technologies to facilitate the transition to an energy-efficient, low-carbon economy.
<b>COM (2009) 139</b>	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No. 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes.
<b>COM (2009) 140</b>	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Progress Report on the Single European Electronic Communications Market 2008 (14 <sup>th</sup> Report).
<b>COM (2009) 149</b>	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Critical Information Infrastructure Protection “Protecting Europe from large-scale cyber attacks and disruptions: enhancing preparedness, security and resilience”.
<b>COM (2009) 277</b>	Memorandum on a communication from the Commission to the European Parliament and the Council “Internet governance: the next steps”.
<b>COM (2009) 278</b>	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Internet of Things – An action plan for Europe.
<b>COM (2009) 303</b>	Report from the Commission to the European Parliament and the Council on the implementation, functioning and effectiveness of the ‘eu’ Top Level Domain (TLD).
<b>COM (2009) 390</b>	Proposal for a Regulation of the European Parliament and of the Council on Europe's Digital Competitiveness Report Main Achievements of the i2010 strategy 2005-2009.

<b>COM (2009) 420</b>	Opinion of the Commission pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's Common Position regarding the Proposal for a Directive of the European Parliament and of the Council amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19 on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services amending the proposal of the Commission pursuant to Article 250(2) of the EC Treaty.
<b>COM (2009) 421</b>	Opinion of the Commission pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's Common Position regarding the Proposal for a Directive of the European Parliament and of the Council amending Directives 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws amending the proposal of the Commission pursuant to Article 250 (2) of the EC Treaty.
<b>COM (2009) 422</b>	Opinion of the Commission pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's Common Position regarding the Proposal for a Regulation of the European Parliament and of the Council establishing the Group of European Regulators in Telecoms, amending the proposal of the Commission pursuant to Article 250 (2) of the EC Treaty.
<b>COM (2009) 479</b>	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'A public-private partnership on the Future Internet'.
<b>COM (2009) 586</b>	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Transforming the digital dividend into social benefits and economic growth".

#### OFFICIAL FORA ATTENDED ON BEHALF OF GOVERNMENT

Communications Committee (COCOM)	RSPG Working Group on coordination of EU spectrum interests
COCOM Working Group Authorisations	RSPG Working Group on digital dividend
COCOM Working Group on Mobile Satellite Services (MSS)	eInclusion sub-group
COCOM Working Group on Mobile Satellite Services (Implementation of framework for pan-European systems providing MSS)	i2010 Broadband Performance Index sub-group
COCOM Working Group DATA	i2010 Safer Internet Management Committee
Postal Directive Committee	Global Navigation Satellite System (GNSS) Supervisory Authority (GSA)
Postal Directive Committee Working Group	GNSS Programmes Committee
Radio Spectrum Committee (RSCOM)	GNSS Working Group Public Regulated Service (PRS)
Radio Spectrum Policy Group (RSPG)	GNSS Security Board

## STRATEGIC OBJECTIVE 4: FACILITATING INNOVATION IN THE PROVISION OF BROADBAND AND OTHER SERVICES, VIA ONGOING RESEARCH AND THE CONTINUED DEVELOPMENT OF THE POLICY AND REGULATORY ENVIRONMENT.

As part of its mandate, the MCA implements regulatory policies that promote innovation. It is for this reason that during 2009, the Authority planned to set up a technology-watch function to be able to closely monitor international technological developments and the implications in the local context. The technology review that has taken place during 2009 has been linked directly to the key projects underway during the year, namely the spectrum assignment in the 3.4 – 3.8 GHz band, the 900 and 1800 MHz bands and the broadband QoS project. The Authority intends to develop this activity into an ongoing one, having a wider perspective.

The availability of spectrum plays a large part in the development and promotion of innovative services as it facilitates a plethora of services and applications based on wireless communications. Consequently, because spectrum enables fast access to information and the deployment of mobile and wireless communication services, access is becoming an ever increasing priority, especially in the developmental and testing stage which is crucial for efficient deployment. Malta's limited size and geographical location render it an optimal setting to study and test specific technology and service implementations on a national scale. It is for this reason that one of the objectives laid out in the Radio Spectrum Strategic Framework focuses, amongst other things, on implementing and seeking opportunities to promote the take-up of 'trial licence schemes' in order to position Malta as a test-bed for wireless system testing and service trials.

The following are the key outputs achieved under this objective.

### OUTPUTS

**Wireless roll-out underway:** During 2009, the MCA continued with its activity to ensure that operators satisfy the roll-out and coverage obligations set out in their licences. In this regard, various measurements were carried out and it was established that the provider of Terrestrial Digital Audio Broadcasting (T-DAB) services, Digi B Network Ltd, as well as the new entrant in mobile telephony market, Melita Mobile Ltd. complied with the relevant licence conditions concerning roll-out and coverage. With regard to BWA services, Cellcom Ltd. still did not provide services and forfeited its licence to the MCA.

**Test & Trial licensing regime:** Consultation with stakeholders was initiated in August 2009.

**IPv6:** The MCA participated in a number of EU, IPv6-related meetings. To date, there do not appear to be concerted advancements on the subject. Progress in achieving the goals mentioned in the European Commission's Action Plan seems to be held back by supplier-related problems and this appears to be the case across Europe. A number of applications required by the service providers do not yet support IPv6. Moreover, IPv6 supporting hardware does not guarantee the same performance as the IPv4 counterparts. These issues are also affecting the local IPv6 deployment. During several meetings held with the local service providers, it transpired that, despite dedicating time and resources to investigate the impact of transitioning their network to IPv6, the problems outlined above have delayed any concrete decisions in terms of IPv6 adoption.

## KEY PERFORMANCE INDICATORS

### CHANGE IN BROADBAND PENETRATION IN TERMS OF SUBSCRIBER NUMBERS AND % OF POPULATION

	2005	2006	2007	2008	2009
Fixed line broadband penetration rate (%)	12.19%	16.26%	20.03%	24.40%	26.80%

### NUMBER OF BROADBAND INFRASTRUCTURES AND SERVICE PROVIDERS

- 3 vertically integrated undertakings.
- 11 third party service providers.
- Melita Cable plc and GO plc lay underwater international links during 2009 bringing the total number to 4.
- GO plc launches WiMax services.

### VARIETY OF TECHNOLOGY PLATFORMS ON WHICH BROADBAND SERVICES ARE OFFERED

- ADSL
- Cable
- WiMax
- Mobile broadband technologies

### NEW SERVICES ON THE MARKET

Fixed Broadband.

- 50 Mbps broadband made available.
- ADSL entry level offering increased from 2Mbps to 4Mbps.
- Cable increased minimum speed from 2Mbps to 5Mbps.

Mobile Broadband.

- Mobile Internet and Data increased to 7.2 Mbps from 3.6 Mbps.
- Launch of a number of pre-paid broadband Internet.

Wireless Broadband.

- New offerings launched.

## **STRATEGIC OBJECTIVE:** FACILITATING ECOMMERCE UPTAKE AND THE USE OF ELECTRONIC SIGNATURES, VIA THE ONGOING DEVELOPMENT OF THE LEGAL, INSTITUTIONAL AND REGULATORY FRAMEWORKS AND RELATED PUBLIC AWARENESS-RAISING.

One of the Authority's main objectives with regard to eCommerce in Malta is to facilitate the delivery of quality eCommerce services by local undertakings and to foster an environment in which both enterprises and consumers are encouraged to partake in online activities. In doing so, the Authority is committed to disseminating as much information as possible to raise awareness both for those providing eCommerce services and those making use of them. The Authority regularly carries out market research in order to get an insight into users' perceptions on eCommerce activities in order to identify areas that need particular attention. More information on this research, including results, provided on pages 82 and 83 of this report.

During the course of 2009, the MCA launched a set of guidelines aimed at existing traders who sell goods and/or services online and those who intend setting up their own online business. The guidelines are designed to assist traders to better fulfil their eCommerce obligations at law and thereby minimise costs that might result from non-compliance, become aware of the regulatory authorities having competencies relevant to the field of online business and become acquainted with the basic requirements for setting up an online business.

These guides were formally launched during the 2nd eCommerce Forum, which was held in September. The Authority is now organising this Forum on a quarterly basis and it has become an important platform for discussion between stakeholders in this field.

Although it is important that traders are encouraged to take their business online, it is equally important that these are monitored to ensure compliance with the relative regulations. The Authority therefore embarked on an initiative to have the necessary monitoring mechanisms in place with the aim of increasing consumer confidence in online buying.

As from 2008 the MCA also operates the local Euro-Label trustmark. There are currently 24 enterprises holding the trustmark.

The following are the key performance indicators with regard to eCommerce.

## KEY PERFORMANCE INDICATORS

### ECOMMERCE UPTAKE FIGURES

- As at September 2009, 73% of Internet users engage in eCommerce activity as opposed to 61% and 54% in the corresponding period in 2008 and 2007 respectively.

### PUBLIC AWARENESS OF THE REGULATORY ROLE OF THE MCA

- 73.6% are not aware of the functions of the MCA whilst 26.4% are aware, out of which;
- 39.8% have a good opinion of the MCA.
- 33.2% have a satisfactory opinion of the MCA.
- 2.4% have an unsatisfactory opinion of the MCA.

### PUBLIC PERCEPTION WITH REGARD TO THE SECURITY OF ECOMMERCE TRANSACTIONS

- 99% of those who engage in eCommerce activity take precautionary measures.
- 45% of the population believe that online shopping is riskier than buying from shops.
- 48% of the population do not shop online for fear of their credit card details being stolen.

### INTERNET USAGE VS ECOMMERCE USAGE AS A % OF THE POPULATION

	Internet usage	eCommerce usage
Sept '09	59	43
Sept '08	49	30
Sept '07	48	26
Sept '06	27	20

### PURCHASES MADE IN THE PAST SIX MONTHS

Sept '09	69 %
Sept '08	50 %
Sept '07	47 %

# POSTAL SERVICES

## STRATEGIC OBJECTIVE 1: ATTAINING, WITHIN ENVISAGED TIMEFRAMES, A LIBERALISED POSTAL SERVICES ENVIRONMENT THAT ENSURES EASE OF ENTRY TO NEW UNDERTAKINGS AND SUSTAINABLE COMPETITION.

The postal sector in Malta is currently in a state of partial liberalisation with full liberalisation due to take place at the end of 2012. It is therefore essential that in its regulation of this sector, the MCA creates the conditions for an environment that is conducive to the onset of competition within the limits imposed by the reserved area<sup>32</sup>. This includes the drawing up of an 'ex ante' regulatory framework, together with requisite tariff reviews on the basis of relevant costs and other work streams intended to lower or remove barriers to entry. Recognising that competition may develop at a different pace in different segments of the market, where possible, the MCA ensures that customers are provided with greater choice. To safeguard the interests of consumers in this regard, the MCA continued to implement mechanisms designed to manage inter-operator relationships as a result of this new market environment.

In order to effectively regulate this changing sector, the current legal framework had to be reviewed, especially in light of Directives adopted at European level. To this end, the Authority made the necessary recommendations to Government on the transposition of the new postal directive and on provisions that are obsolete, ambiguous or restrictive on the MCA's regulatory or enforcement powers.

The following are the outputs and key performance indicators for this strategic objective.

### OUTPUTS

- MCA's proposals to Government on the review of the postal regulatory framework in view of the Third EU Postal Directive and the process to full liberalisation of the postal sector by no later than the end of 2012.
- Decision regarding inter-operator issues published in December 2009 implementing minimum standards to pre-empt and address potential issues which are likely to arise in a multi-operator environment, such as consumer issues and inter-operator mailing errors, so as to preserve the public's confidence in the postal system. This Decision also outlined the requirements for postal operators to access elements of the postal infrastructure and services.
- During the year, the MCA embarked on two separate work streams aimed at ensuring that tariffs are in line with guiding principles outlined in the postal directive.

32. The reserved area refers to mail weighing up to 50 grams and/or costing less than two and a half times the basic tariff, i.e. €0.19. Only the USP can operate within this area. The rationale behind the reserved area is that it compensates the USP for taking on the uneconomic burden of universal services. The reserved area will be removed following the full liberalisation of the sector at the end of 2012.

The MCA appointed independent consultants to perform a detailed review of the Universal Service Provider's (USP) cost accounting system. As regulatory accounts are the primary tool used by the MCA for price control, this was considered necessary to ensure that the system meets all the regulatory requirements and to obtain comfort in relation to the robustness of the data in the regulatory accounts. Work on the cost accounting system review started towards the end of the year.

Furthermore, the MCA appointed independent consultants to assist in the development of a tariff rebalancing framework for universal postal services in Malta. The aim of this project is to set a framework which will facilitate efficient market operation and offer the basis for effective price regulation going forward. Work on the project is expected to start in 2010.

## KEY PERFORMANCE INDICATORS

### NUMBER OF POSTAL SERVICE PROVIDERS IN THE VARIOUS POSTAL AREAS

- The number of postal service providers remained constant, with one USP and one operator providing postal services within the non-reserved area of the universal service area.
- Sixteen authorised undertakings providing postal services outside the universal postal service area.
- In December, the MCA received an application from DHL International Ltd for a licence and authorisation to provide non-reserved postal services both within and outside the universal postal service area.

### EASE OF ENTRY TO MARKET

- Premier Post is now an established licensed operator within the non-reserved area of the universal service area. Additionally, a number of undertakings operating outside the universal postal service area expanded their operations during the year under review.

### POSTAL VOLUME TRENDS IN THE VARIOUS AREAS OF THE POSTAL SECTOR

- Total postal volumes: mail volumes declined in 2009, by 2.7 million items.
- Increases in inbound cross border mail services as a result of growth in eCommerce.

### NEW SERVICE OFFERINGS

- No new service offerings by the USP.

## STRATEGIC OBJECTIVE 2: ENSURING THAT POSTAL UNDERTAKINGS PROVIDE A TRANSPARENT, VALUE-FOR-MONEY SERVICE TO USERS WHILST ADHERING TO INCUMBENT SOCIAL OBLIGATIONS.

This consumer-centric objective is best achieved in a fully competitive environment. However, in the absence of such, regulation is key. In this regard, the MCA carries out a number of exercises in order to ensure that the USP meets its regulatory obligations. These exercises focus mainly on cost-orientation, tariff control, access to universal postal services, protecting the integrity and security of mail, the review of postal service schemes, complaints handling and compensation schemes as well as the set of QoS targets to be reached by the USP. The MCA also carries out regular public perception surveys in order to ensure that the services being provided meet the customers' needs. In taking regulatory decisions, the Authority takes into account the results of these surveys.

### OUTPUTS

- In the first quarter of 2009, the MCA commissioned an independent consulting agency to carry out a review of the MaltaPost plc complaint handling requirements and procedures.

The objective of this review was to monitor and ascertain compliance with the decision notice on the QoS Standards to be achieved by MaltaPost plc. The report was finalised in April 2009 and following discussions with MaltaPost plc, the main issues and recommendations arising from the report were addressed in the course of the year under review.

### KEY PERFORMANCE INDICATORS

#### MOVEMENT IN POSTAL PRICES

- None.

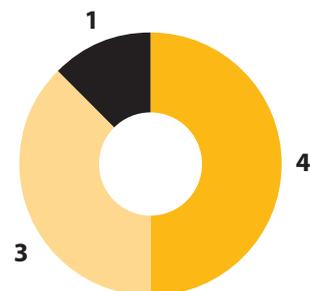
#### QoS PERFORMANCE STATISTICS IN RELATION TO SET TARGETS

- MaltaPost plc continued to meet its QoS targets in all areas.

#### USP & MCA COMPLAINTS STATISTICS

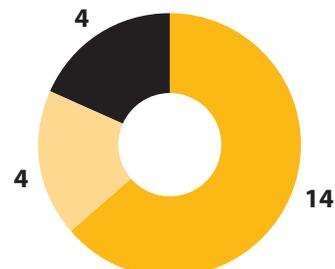
Postal Complaints by Issue 2008

- QUALITY OF SERVICE
- INDUSTRIAL DISPUTE
- PERCEIVED DISCRIMINATORY PRACTICES



Postal Complaints by Issue 2009

- QUALITY OF SERVICE
- SERVICE PROVISION
- OTHERS





### **STRATEGIC OBJECTIVE 3:** CONTRIBUTING TO THE ONGOING DISCUSSION, AT AN INTERNATIONAL LEVEL, ON THE CONSISTENT IMPLEMENTATION AND ONGOING DEVELOPMENT OF THE POSTAL REGULATORY FRAMEWORK AND RELATED ISSUES.

As with other sectors it regulates, the MCA is committed to keeping abreast of international developments in postal sector regulation, given also the international dimension of the postal service, at an EU level as well as on the wider international plane. The Authority

regularly participates in EU and other international fora on the subject, including the European Committee for Postal Regulation (CERP) and contributes to the ongoing discussion in this regard.

### KEY PERFORMANCE INDICATORS

**THE MCA WILL CONSTANTLY EVALUATE THE EFFECTIVENESS OF PARTICIPATION IN INTERNATIONAL FORA PARTICULARLY IN RELATION TO ISSUES CONCERNING MALTA'S INTERESTS**

- Active participation in the Postal Directive Committee, which oversees the transposition and implementation of the 3rd Postal Directive and its Working Group which helps to share best practice amongst member states.
- Continued participation in relevant CERP fora.

# INFORMATION SOCIETY

## STRATEGIC OBJECTIVE 1: ACHIEVING WIDESPREAD E-LITERACY, DIGITAL INCLUSION AND THE USE OF ICTS AS A TOOL TO IMPROVE QUALITY OF LIFE FOR ALL CITIZENS, IN PARTICULAR, DISADVANTAGED GROUPS.

As ICT proceeds to change the life of millions, the thrust towards a true information society is well underway. Entrusted with the promulgation of the use of ICTs, which has long been high on the Government's agenda, the MCA has undertaken a number of substantive initiatives specifically aimed at ensuring the full participation of individuals and communities in all aspects of the information society.

ICTs have the potential to improve economic performance, quality of life, social participation and cohesion. It is not enough, however, to ensure that one has access to these technologies. The ultimate aim is to increase usage and to ensure that all sectors of society have the skills to harness the potential of ICTs. On this note, the MCA has set up a number of Community Technology Learning Centres (CTLCs) in which training, support and access to technology is provided with a view to enhancing the quality of life and employability of vulnerable groups. Furthermore, the Authority also donated refurbished PCs to numerous NGOs and set up free Wi-Fi hotspots in public spaces to increase access and encourage use of mobile technologies.

In addition, the Authority regularly evaluates indicators related to the level of ICT penetration amongst users and households as well as usage trends in Malta when compared to other jurisdictions, which provides a good indication of which areas need to be addressed further as well as to the success of ongoing initiatives.

### OUTPUTS

- Free wireless points were made available in 14 public locations.
- 2 new CTLCs opened, bringing total number to 12, in which 1,044 people were given basic ICT training during the year.
- 211 refurbished PCs were distributed amongst 79 NGOs.
- 50 PCs were given to social cases through the Community Chest Fund.
- 56 PCs distributed in homes for the elderly.
- 97 PCs distributed amongst 20 local councils.

- The Mission Fund in Albania and Tanzania were provided with 30 desktops and 10 laptops respectively. It is anticipated that during the course of 2010, 20 PCs will be donated to the Mission Fund in Congo and 30 PCs to a centre in Egypt.
- 57 PCs were distributed to homes for the elderly. WiFi was also provided.
- Approximately 1000 PCs were distributed as part of the SmartStart initiative Phase 1.
- 13 clips, related to various ICT subjects, were produced and will be aired during the course of 2010.
- Successful application for the 'BeSmartOnline' programme for funds under the EU Safer Internet Programme.

## STRATEGIC OBJECTIVE 2: ENCOURAGING THE USE OF E-BUSINESS MODELS BY LOCAL ENTERPRISES AS A MEANS TO IMPROVE COMPETITIVENESS.

This function was entrusted to the Authority in 2008 and complements its activities in terms of the regulation of the eCommerce sector. This function gives the Authority a broader remit, in that it is now entrusted with the responsibility of deploying initiatives that encourage or facilitate the use of ICTs by businesses. In this regard, the MCA in particular seeks to increase awareness on the opportunities and resultant benefits of ICT amongst the enterprise community. It also envisages the implementation of structures to enable businesses to deploy ICT-based systems in their operations and engage in B2B activities.

### OUTPUTS

- 24 enterprises currently hold the Trustmark.
- Established the eCommerce Forum on a quarterly basis in which a number of issues relating to eCommerce are discussed.
- EU Funded projects – EPITOME & ICT-VN: Successful applications for structural funding amounting to approximately €500,000, which will be used to promote e-Business best practices in Malta. These two projects will be rolled out over the next three years. Further details are provided in the following section.

# SUPPORTING THE STAKEHOLDERS

The Authority has a varied stakeholder base that includes end-users and consumers, the industry players it regulates, the Government, government departments, public authorities as well as non-governmental agencies. More recently, with the extension of its remit to include matters related to the information society, this stakeholder base has been extended to include those members of our society that are at risk of exclusion from a digital divide standpoint, as well as the wider economy, from an eBusiness perspective.

It is the Authority's duty to keep the interest of these stakeholders at the forefront of all its activities, however, a number of functions that the Authority undertakes are directly addressed at specific stakeholder groups. The provision of market information, for example, is key to keeping industry players abreast with market and technological developments. Awareness raising activities and other initiatives in the interest of consumers, such as the review of consumer contracts and studies to gauge consumer perceptions on various electronic communications services, are targeted directly at consumers.

It is essential that the Authority gives a voice to the industries it regulates and has done so by setting up regular fora, such as the eCommerce Forum and the Electronic Communications Forum. Such fora provide an important platform for the sharing of information and experiences and, particularly in the case of the eCommerce Forum, provide excellent networking opportunities.

Through its information society related activities, the Authority continued with its initiatives to increase ICT accessibility and literacy and consequently, through the use of technology, improve the quality of life and employability levels of the Maltese communities.

This section provides more detail on all the work streams undertaken directly in support of the Authority's stakeholders.



# THE CONSUMER

## 1. Consumer Awareness Campaign

In November 2009, the MCA embarked on a short but intensive information campaign with the aim of increasing awareness on consumer rights in the telecoms environment. The campaign focused on assisting consumers in selecting services that best suit individual needs, important clauses to look out for in service contracts and the MCA's remit with regard to consumer issues. Apart from press adverts, billboards and online marketing, the MCA also participated in regular TV and radio programmes to further reinforce the key messages communicated throughout the campaign. The campaign culminated in the distribution of a comprehensive consumer-guide booklet to every household across Malta and Gozo. The booklet is an updated, consolidated version of the individual consumer guides that were published in 2008 and which provide information regarding the factors to consider before choosing a particular service provider; the different types of products and services available on the market to enable adequate comparison before purchase or subscription; the rights and obligations of the service providers and how to lodge complaints effectively to obtain the best results. The MCA shall carry out a survey to gauge the effectiveness of the campaign during 2010.

## 2. Contribution to the DOLCETA Website

The MCA continued in its contribution to a consumer education project entitled 'DOLCETA' in which all 27 member states participate. Supported by the European Commission, DOLCETA provides online modules that focus on different consumer topics, including electronic communications and postal services. In this regard, the

MCA populated the sections that relate to areas that fall within its remit, focusing mainly on postal services during 2009.

## 3. ICT Awareness Broadcasts

During 2009, the MCA outsourced the production of 13, five-minute broadcast features aimed at delivering to-the-point information about ICTs and their various applications in daily life. Targeting the general public, these features cover topics such as e-Accessibility, shopping online, the digital switchover and eGovernment amongst others. The features will be aired on popular TV magazine programmes during 2010. Further dissemination of these clips will be carried out in 2010.

## 4. Consumer Perception Surveys

In order to obtain a better understanding of sectors it regulates and consequently take better regulatory decisions, the MCA regularly monitors communications services by means of surveys. Four surveys were conducted between April and June 2009, to obtain consumer perceptions on Internet services, fixed and mobile telephony and broadcasting. In general, consumers were questioned on access and usage of services, satisfaction levels, price awareness, the level of information available to them, expenditure, service quality, whether the service forms part of a bundle, the type of service they are subscribed to, the duration of subscription and future considerations. The results from these surveys were largely used to inform the MCA on various regulatory issues including market review decisions. Furthermore, these findings were also

fundamental in determining which areas the Authority needed to address in its consumer information campaign launched in November. The main findings of the surveys were published by the MCA in order to enable industry players to monitor their performance in terms of consumer perceptions in the areas where they operate. Some key findings of these surveys are highlighted on page 53 of this report.

#### 5. Digital Switchover Information Campaign

The MCA has been appointed by Government, as part of the Digital Switchover Committee, to carry out an extensive public information campaign to ensure a smooth migration of GIO broadcast transmissions from analogue to digital technology. To this end, the MCA drafted a comprehensive communications strategy based on in-depth market research that was also carried out during the course of the year. The strategy primarily targets the 16,000 households (equivalent to 11.2% of Maltese households) that rely solely on free-to-air transmission to watch Maltese television stations. The campaign, however will also target a further 7.6% of households that are subscribed to a local pay TV service but also watch free-to-air television. The campaign was launched towards the end of 2009.

#### 6. Review of Consumer Contracts for Electronic Communications Services

The MCA sought to address a number of questionable practices that were being undertaken by services providers to entice new consumers to subscribe to their services or for current consumers to take up new services on offer. Given that the main protection afforded to

consumers is the contract entered into when subscribing to a new service, the MCA embarked on a thorough review of all existing consumer contracts and/or terms and conditions to determine whether the service providers were compliant with all provisions in the Electronic Communications (Regulation) Act. As at the end of 2009, regulatory action was underway in this regard.

#### 7. Ongoing Compliance Monitoring of Consumer-Related Services

The MCA actively monitors the market to ensure regulatory compliance on an ongoing basis. Due to an increase in the number of service providers and services being provided, the MCA has recently enhanced its resources to be in a better position to oversee the various services which are being made available including the universal services, billing, tariff transparency, contracts, complaint handling mechanisms, directory information services, access to emergency services, number portability and any other consumer-related services.

#### 8. Ongoing Monitoring of Harmful Interference

Spectrum monitoring provides information on the quality and actual use of frequencies. This activity also serves to ensure optimal and lawful use of radio spectrum. During 2009, the MCA continued to monitor the radio frequency spectrum to ensure that spectrum bands were free from any unlawful transmissions. During the year under review, the MCA also investigated complaints concerning harmful interference from a number of radiocommunications services.

## 9. Ongoing Market Surveillance in Accordance with R&TTE

In general, the purpose of the R&TTE Regulations, adopted under the Product Safety Act, is to ensure that radio and telecommunications terminal equipment complies with essential requirements concerning electromagnetic compatibility, health and safety of the users and third parties and the effective use of radio spectrum. During 2009, the Authority processed more than 1,400 notifications regarding radio equipment which operates on non-harmonised frequency bands proposed for placement on the local market. Furthermore, the Authority carried out market inspections to ensure that products being placed for sale were compliant with the R&TTE Regulations. Products that were found to be not R&TTE compliant were removed from the market. The MCA performs this function in close collaboration with the Market Surveillance Directorate within the Malta Standards Authority.

## 10. EMF Review

The Authority continued its EMF monitoring activity to ensure that emissions of radiocommunications stations are within the exposure standards established by the ICNIRP. In 2009, 125 sites were tested and these included mobile communications base stations, BWA base stations, broadcasting transmitters and other sources of EMF. Repeat tests were also carried out on EMF sources tested in previous years to ensure continued compliance with the pertinent regulations. In addition, a number of EMF measurements were carried out following requests from the general public. In all cases, the audited results were found to be compliant with the relevant standards, whilst in most cases, the audited results did not even exceed 5% of the public exposure levels specified by the ICNIRP. The MCA maintained ongoing liaison with the department responsible for public health on EMF-related issues and will continue its EMF auditing programme during 2010.



# THE INDUSTRY

## 1. eCommerce Forum

This forum was resumed during the course of 2009. This forum provides a platform for discussion for stakeholders to share experiences and the problems and challenges faced with regard to eCommerce. More importantly however, the Forum provides an opportunity to build partnerships that may serve to further develop this industry. The first Forum for 2009 was held in September in which the eCommerce guides for businesses were formally launched. These guides are intended to provide essential information to any entrepreneur interested in providing eCommerce services. The Forum also featured three local success stories. This Forum will be held on a quarterly basis.

## 2. Electronic Communications Forum

The Electronic Communications Forum is also held on a quarterly basis and is hosted by the MCA. The forum brings together stakeholders in the electronic communications industry and is the venue for discussion of current regulatory issues having relevance to the sector. Operators are invited to propose topics for discussion during the meetings and are given a list of upcoming planned consultations for the next quarter in order to enable better planning of resources. The following is a list of topics discussed during 2009.

- Proposed revision of the eMoney Directive.
- Review of the roaming Regulation.
- Review of the EU framework for electronic communications networks and services.
- Proposed amendments to communications laws to integrate the Radiocommunications Act in to the Electronic Communications (Regulations) Act.
- Statistical Analysis Modular System (SAMS).
- Broadband internet QoS.
- Consumer issues.
- International connectivity guidelines for service providers.
- Radio links licensing regime consultation.
- Commission communication on eCall.
- Security breach notifications.
- Transposition of the reviewed regulatory framework.

### 3. MCA Annual Conference

The global migration to digital transmissions is bringing about a revolution in the broadcasting sector, opening different platforms to content and increasing the potential of current broadcasting spectrum. It is for this reason that the topic chosen for discussion during the MCA Annual Conference 2009 was 'Digital TV. What's on?' The panel of renowned international and local experts on the subject attracted approximately 100 delegates to the Conference.

### 4. The Trustmark

As from 2008, the MCA became responsible for the operation of the Euro-Label trustmark for eCommerce services. There are currently 24 enterprises holding the trustmark. During 2009, the Authority also initiated a review of the current trustmark, with a view to updating this to reflect developments in the sector and to capture a broader spectrum of service providers operating in this field.

### 5. Keeping in Touch with the Industry

In its effort to promote e-Business in Malta, the Authority sponsors initiatives that target different segments of the business community. With the scope of increasing the effectiveness of such initiatives, the MCA often seeks to partner with other stakeholders. During 2009, in collaboration with BOV plc and HSBC Bank Malta plc, the MCA organised a small number of briefings about the use of e-Banking by small businesses. In cooperation with the General Retailer and Traders Union (GRTU), the Authority also organised a seminar for small and micro businesses on e-Business as an increasingly important business model. These sector-specific seminars are now being complemented by the eCommerce Forum organised on a quarterly basis as outlined previously.

# THE INFORMATION SOCIETY

## 1. PCs for Non-Governmental Organisations

The MCA continued to implement a number of initiatives aimed at reaching disadvantaged sections of the population to ensure adequate access to and usage of, various ICT applications. As part of these initiatives, the MCA donated a number of refurbished computers to entities providing services of a social nature. As a result, these organisations were provided with the opportunity to avail themselves of technology at a fraction of the cost of new hardware. Computers have been donated to centres in Tanzania and it is anticipated that computers will also be donated to mission funds in Congo and to a specialised centre in Egypt during the course of 2010.

## 2. Community Technology Learning Centres (CTLCs)

With the aim of improving access to ICT in the community and minimizing the digital divide, during the past years, the MCA endeavoured to open a number of these centres across Malta and Gozo, two of which were launched during 2009. Quite apart from the importance of having access to these technologies, the Authority also offers basic training in various areas of ICT free of charge. The training courses are designed with the needs of adult learners in mind recognising that such technology empowers individuals to achieve a better quality of life. During 2009, the MCA initiated the development of a new curriculum, taking into consideration the various social and technological developments over time. It is anticipated that the new curriculum will be offered in 2010.

## 3. Wi-Fi in Public Spaces

To further promulgate the use of ICT and facilitate access to the Internet, the MCA set up numerous free Wi-Fi Internet points in various locations across Malta and Gozo. The project promotes Internet access by means of portable devices such as laptops, netbooks and mobile phones away from home or the office desk. The Wi-Fi points enable visitors to connect to the Internet at any time of the day, free of charge. All the Internet points are filtered against inappropriate and unlawful content so as to offer a safer Internet environment, especially for minors. To date, 14 wireless points have been set up.

## 4. EU-Funded Projects – EPITOME & ICT-VN

During the course of 2009, the MCA successfully applied for and secured structural funding amounting to approximately €500,000, which will be used to promote e-Business best practices in Malta. One such project is EPITOME, which develops and delivers a training programme on ICT as an entrepreneurial tool, specifically targeting personnel employed in micro-enterprises. Besides enhancing ICT skills, the programme will provide participants with a set of relevant skills with a view to improving the flexibility and competitiveness of the Maltese worker in an increasingly challenging globalized economic environment. This project will run for a period of 30 months.

ICT-VN is a European Union funded project under the INTERREG IVc Programme. The MCA is a partner in a transnational initiative of 10 partners that will involve



the identification of organisational processes that may lead to increased value. The mandate is the 'exchange and transfer of knowledge and good practice', focusing mainly on two priorities: the innovation and knowledge economy and environment and risk prevention. The main aim is to stimulate the development of effective use of ICTs by SMEs to create value, specific to their local needs. This project will run for a period of 36 months and involves the collaboration of 10 partners.

## 5. Safer Internet Programme

The diffusion of formal ICT education and internet access in primary and secondary schools across Malta and Gozo has resulted in a very high proportion of children using the Internet when compared to the EU average. Parents, by contrast, do not fare as positively, indicating a substantial generational digital divide which reduces parents' capacity to safeguard children from online abuse. Government's ICT policy proposes

an alliance with all stakeholders involved in order to develop an innovative awareness initiative to protect children from harm and abuse over the Internet. The EU's DG for Information Society and Media runs the Safer Internet Programme to address this issue. With input from other related agencies, the MCA submitted an application to participate in this programme, particularly through the 'BeSmartOnline!' project, which mainly revolves around the setting up of a Safer Internet Centre in Malta. A number of awareness-raising actions are also included in the programme. These will include creative campaigns targeting children, youths, parents, educators and the general public with the aim of educating the public on the safe use of the Internet. A national partnership will be established, including an advisory board and youth panel. The project will include a hotline to fight illegal content and a helpline to answer online questions and telephone calls from children and parents related to problems encountered during their use of online technologies. The 'BeSmartOnline!' project will be coordinated by the Authority and will include the Foundation for Social Welfare Services - Agenzija Appoġġ<sup>33</sup>, the Directorate for Educational Services as well as the Office of the Commissioner for Children.

## 6. Market Research

**Internet and eCommerce use by individuals – April 2009: a qualitative study:** For the first time, the MCA commissioned a qualitative study about Internet and eCommerce use by individuals to obtain a more in-depth analysis of the public's perceptions, fears and concerns when transacting over the Internet.

The findings of this study confirmed available data indicating that Internet skills are mostly absent amongst pensioners, females and those with a low-level of education.

However, this study revealed that these groups could be motivated to gain these skills. In particular, the following emerged as key motivators:

- TO ASSIST CHILDREN WITH HOMEWORK AND PROJECTS AND TO MONITOR THEIR CHILDREN'S USE OF THE INTERNET;
- TO CHAT WITH AND SEE THEIR FAMILY MEMBERS LIVING OVERSEAS; AND
- TO BRIDGE THE AGE GAP BETWEEN GRANDPARENTS AND GRANDCHILDREN.

Interestingly, some participants showed interest in learning how to use the Internet after hearing about the benefits and ease of online shopping from other participants. Indeed, some also claimed that they would seriously consider online buying if they came across prices on the Internet that were substantially cheaper than those found in local shops.

Moreover, these participants would be willing to attend a short course about the Internet and online buying if this was designed in a practical and simple manner and tailor-made for a specific audience. Participants who made use of the Internet claimed that they found the Internet very useful when buying a good or service since they could easily compare product features and prices.

33. Agenzija Appoġġ forms part of the Foundation for Social Welfare Services. The ultimate aim of the Agency is the enhancement of the lives of people in need, through the provision and availability of professional care and support. Offering over 25 specialised and generic social welfare services, Appoġġ has become the central national agency for children and families in need.

**MCA eCommerce use by individuals survey 6 – September 2009: a quantitative study:** The eCommerce survey conducted in September showed an increase of 13% in Internet access and an impressive growth of 32% in Internet usage, since the first survey which was carried out in September 2006. Whilst Internet usage by persons between 18 and 65 years grew consistently over the years, Internet usage by the 66+ group remains persistently low. The latter's lack of use is mainly due to not having access to a PC or Internet, not being interested and not knowing how to operate a PC or how to use the Internet. The majority of users mainly use the Internet to send and receive emails, to carry out research, to shop online and to browse for products and services. It is interesting to note that more than three-quarters of Internet users use the Internet on a daily basis.

Statistics gathered by the MCA denote an increasing trend in online purchases. 73% of Maltese Internet users claim to buy online – a remarkable increase from the 54% registered in 2007. This implies that 43% of the population engage in online buying with 41% doing so on a regular basis.

It seems people are starting to turn to online shopping for more advantageous deals. In fact, 59% of the population agree that prices on the Internet are more attractive than those in shops. Around 30% of eCommerce users claim to have made more than six

online purchases in the last six months whilst 50% claim to have spent more than €120 in online shopping during the same period of time, excluding mobile topping up via the Internet.

Electronic goods and clothing continue to be the most sought after items on the Internet, closely followed by books, whilst spare parts, flights and hotel accommodation are on the increase. As was already evident in the previous survey, people seem to be more inclined to make use of third party payment methods instead of paying by credit or debit cards. Although 22% of eCommerce users claimed to have experienced problems whilst shopping online in the six months prior to the survey, only 4% claim that they had not sorted out the problem.

Buying from trusted companies and using third party payment methods top the list of precautions taken by the online buyers, closely followed by selecting secure sites and maintaining low credit card limits.

The survey also sought to gain information on reasons why people do not shop online. 73% of non-eCommerce users do not buy online because they prefer to handle items before committing to a purchase. 52% are afraid that the items will not be delivered at all or delivered damaged whilst another 52% are simply not interested or do not feel the need to buy from the Internet.

# HIGHLIGHTS OF 2009 ACTIVITIES

This section is intended to give a more in-depth view of the activities undertaken throughout 2009 in the attainment of the strategic objectives outlined in the previous sections. It provides a list of all consultations and decisions published throughout the year and the main outcomes in this regard. It also provides information on the legal and legislative activities undertaken as well as the Authority's contribution to International and European fora. In addition, this section highlights human resource and other corporate initiatives and other ongoing regulatory activities undertaken by the Authority.



# DECISIONS PUBLISHED

## ELECTRONIC COMMUNICATIONS

### 1. Market Analysis: Mobile Call Termination

In March 2009, the MCA initiated a third analysis of the market for wholesale mobile call termination services. In 2008, the MCA had carried out its second review of this market where it had identified Vodafone (Malta) Ltd and Mobisle Communications Ltd as having SMP in the provision of termination services over their individual mobile networks. The market review decision published in November 2009 extended the 2008 decision by confirming the said operators as having SMP in mobile call termination services and also found that Melita Mobile, which commenced operations in February 2009, held SMP in the setting of mobile call termination rates on its own mobile network. The MCA therefore mandated a number of regulatory measures in order to mitigate any potential competition problems that may arise in these markets.

### 2. Market Analysis: Fixed Retail Call Services Market

In the market review decision on the retail call services markets, the MCA identified two markets – one for national fixed calls and another for international fixed calls. After analysing both markets, the MCA found that no operator is able to act independently of its competitors and that there are adequate signs of competition in these markets. The MCA therefore concluded that regulatory remedies are not required and subsequently lifted these obligations through a decision published in March 2009.

### 3. Establishing a Framework for Short-Code Allocations

In April 2009, the MCA issued a consultation aimed at PATS providers regarding the classification of short codes in different interconnection and charging categories according to the use of such codes. The consultation also encompassed the process flow that needs to be followed by all the players involved when setting up a new short code. The decision in this regard was published in July.

### 4. Accounting Separation and Publication of Financial Information by Undertakings having SMP in the Electronic Communications Sector

In July 2009, the MCA published a decision on accounting separation and publication of financial information, which is an update of a previous decision which had been issued in October 2002. This decision deals with the requirements imposed on service providers designated as having SMP in the fixed and mobile telephony markets and subject to accounting separation obligations. The decision took into account the European Commission's Recommendation on accounting separation published in September 2005. By means of this decision, the MCA decided not to impose current cost accounting methodologies for accounting separation. However it will continue to ensure that legacy costs and inefficiencies are not passed onto other operators through wholesale pricing. The decision also covers areas such as the regulatory accounting concepts,

principles and transfer charging principles, the level of accounting separation, the format of the separated accounts, the audit of the separated accounts together with the type of audit opinion to be provided by the auditors and the statement of compliance together with the publication of financial information and the timeframes for publication of the accounts. The decision became applicable for accounting periods ending on or after 1st January 2009.

#### 5. Review of Fixed Interconnection Rates

In May 2009, the European Commission published its Recommendation on the regulatory treatment of fixed and mobile termination rates in the EU which defines and sets out common principles to be applied by regulators across the EU when designing applicable remedies within the current regulatory framework. Amongst others, the principles relate to concepts of an efficient operator and symmetric regulation as well as the identification and calculation of efficient costs consistent with those incurred in a competitive market. Cognisant of the Commission's work streams in this regard and the likely impact this might have on the regulation of FTRs in Malta, the MCA did not

make further adjustments to its next generation core Bottom-up Cost Model (BUCM) for FTRs as it did in previous years. In June 2009, the MCA issued a public consultation on the subject, in which it proposed to maintain the average FTR at its current level. However the wholesale peak, off-peak and night tariffs would be updated to reflect current traffic patterns. A decision was issued in July in which the peak FTR was reduced to €0.00833 per minute, 3% lower than the corresponding EU weighted average peak rate of €0.0086 per minute as reported in the 14th Progress Report on Electronic Communications Markets 2008, published by the EU.

#### 6. Weighted Average Cost of Capital (WACC) Review 2009

On an annual basis, undertakings having SMP in the electronic communications sector are required to submit revised WACC rates following the methodology that was outlined in a decision published by the Authority in August 2008. Following submissions by the undertakings of their respective WACC rates, the MCA issued a decision in April 2009 mandating the WACC rates to be applied to the respective regulatory accounts.

## POSTAL SERVICES

### 1. Accounting Separation and Publication of Financial Information by MaltaPost plc

In August 2009, the MCA published this decision which updated the previous decision published in January 2005. The decision primarily updated requirements to the statement of compliance and the form of audit opinion obtained from the regulatory auditor.

### 2. Managing Postal Inter-Operator Issues

With the emergence of competition in the postal sector, complexities may arise due to the unintended operational cross-over between different postal networks. This could lead to a number of operational issues, such as the entry of postal articles into the network of a postal operator that is not responsible for the postal article in question. This decision establishes a framework for identifying, extracting and 'repatriating' postal articles that have entered the incorrect postal network. It also establishes the framework necessary for access to the postal infrastructure<sup>34</sup> and services<sup>35</sup> required in a multi-operator environment to ensure consumers continue to receive a seamless service.

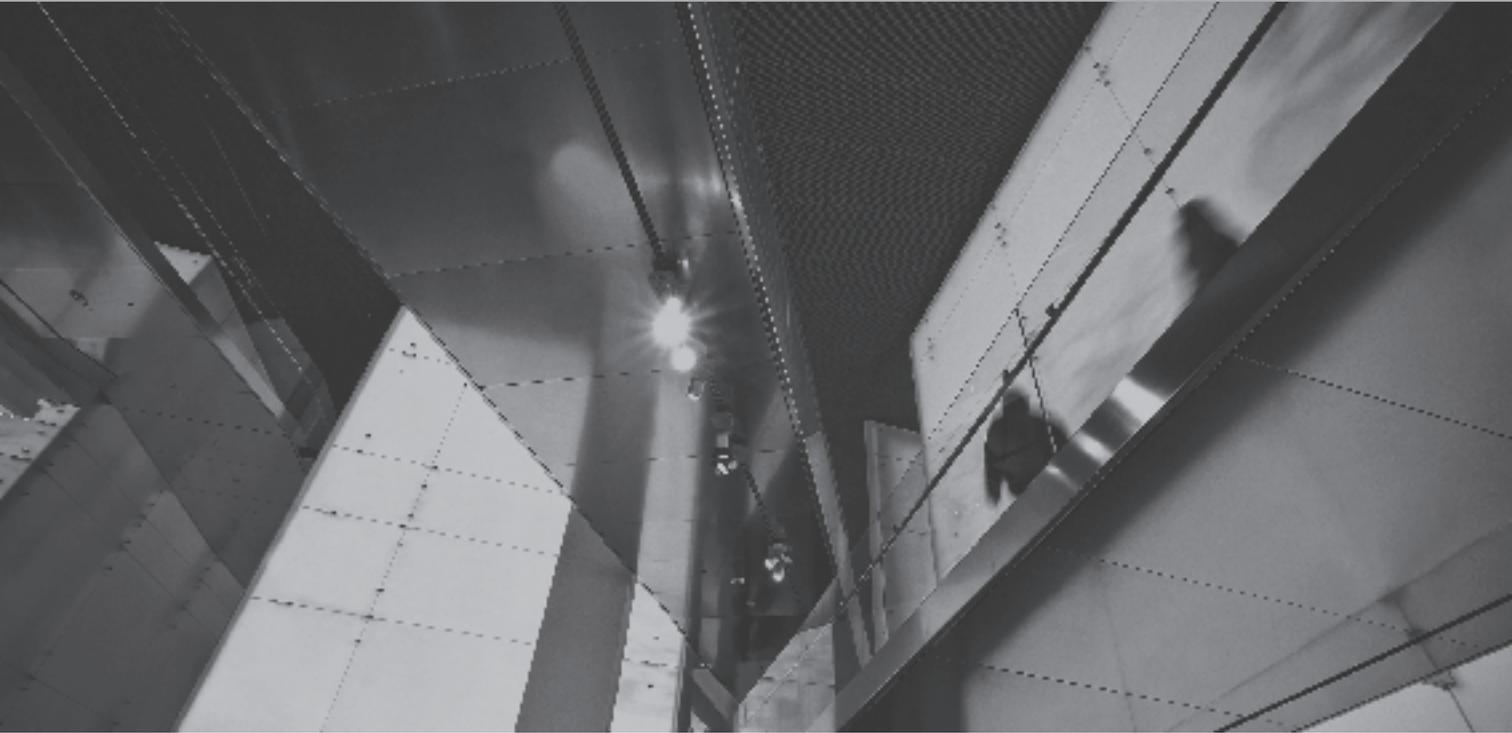
This decision introduced a set of minimum standards setting out the duties and obligations of postal operators within the scope of the universal service, with respect to the following issues:

- mail will carry a particular postal identifier that enables consumers to easily recognise individual postal operators;
- accessing elements of the postal infrastructure and services;
- the timely and efficient extraction and repatriation of mail which has entered the postal facilities of a postal operator which is not the intended operator<sup>36</sup> and
- the redirection of misdirected customer service enquiries.

34. The postal infrastructure comprises the structures and facilities necessary to guarantee the consumer an effective and reliable mail delivery in the country.

35. Including access to the mail redirection and postcode information and post office boxes.

36. Including misposted and reposted (gone away, forwarded, misdelivered etc.) and referred together as 'misdirected mail'.



The implementation of these standards will ensure the prompt handling and delivery of postal articles in a multi-operator environment. As a result of these standards, as the designated USP, MaltaPost plc is required to publish a standard offer (referred to as a 'Reference Offer') that would set out the processes and arrangements that MaltaPost plc would adopt to address common inter-operator issues with other licensed postal operators. Other licensed postal operators would negotiate and agree on the most efficient arrangements on a commercial basis, whilst respecting the principles set out in these standards.

The implementation of these standards should therefore result in a better service for consumers, by minimising any potential problems that might occur, whilst encouraging new postal operators to enter the market as they offer more regulatory certainty and clarity on postal operations.

# CONSULTATIONS ISSUED

## ELECTRONIC COMMUNICATIONS

### 1. Reassignment of 900 MHz and 1800 MHz Spectrum

The 900 and 1800 MHz spectrum bands are primarily used to provide mobile telephony services. The licences in this regard are due to expire in 2010 and 2011. Therefore, during the year under review, the MCA published a paper proposing a methodology for reassignment, taking into consideration the significant potential of this spectrum and the need for a smooth transition, from existing to new assignments. This proposal triggered an extensive consultation process with the industry players that will continue well into 2010.

### 2. Assignment of Spectrum in the 3400 – 3800 MHz Band

A decision published by the European Commission resulted in the harmonisation of the technical conditions imposed by member states for the provision of electronic communications services over the 3400 – 3800 MHz band. In 2009, the MCA published a consultation paper which put forward proposals for the assignment of spectrum in this band, which was made available following the rescinding of a licence towards the end of 2008. The responses received were analysed and further meetings were held with the industry players. The project is underway and is expected to be concluded in 2010.

### 3. Redefinition of USO

In May 2009, the MCA published a proposed decision on universal service obligations setting out the electronic communication services to be made available to all, at affordable rates. The document defined the various universal service obligations and proposed a process for the designation of the universal service provider. Prior to the publication of this proposed decision, the MCA commissioned an independent survey on the use of

the printed directory. This proposed decision generated substantial interest in the media, reflecting the public interest in the topic as well as its sensitivity. A final decision is earmarked for 2010.

### 4. Grant of Right of Use of Spectrum for Test & Trial Purposes

Malta's size and geographical location render the island ideal for the study and testing of specific technology and service implementations on a national scale. In August 2009, the MCA published a consultation paper proposing the introduction of a licensing regime for the use of spectrum for test and trial purposes. The responses received were considered and the process is expected to be finalised in the second quarter of 2010 through the publication of the relevant legislation.

### 5. Review of Radio Links Licensing Regime

In September 2009, the MCA published a proposal for the overhaul of the existing radio links licensing regime. The main objective was to establish a framework that incentivised efficient use of spectrum. The process is expected to be concluded in the first half of 2010 with the publication of an amendment to the Fees Ordinance.

### 6. Review of Numbering Conventions

In October 2009, the MCA consulted with all PATS providers about the introduction of individual application processes for requests for new and/or additional numbers. Besides establishing the responsibilities of the different parties when the allocation of numbers takes place, this document also proposed the introduction of specific time limits for each stage of the assignment process. A decision is expected to be published in early 2010.

## 7. Interconnection Strategy Review

Interconnection allows the subscribers of one network to connect with subscribers of another network, or to access services provided by the other network. This is made possible through the charge of wholesale termination rates between operators. In November 2009, the MCA published a consultation on the regulatory strategy with respect to fixed and mobile wholesale termination rates over the short to medium term. In this consultation paper, the MCA took into account the European Commission's Recommendation on the regulatory treatment of fixed and mobile termination rates in the EU published in May 2009, considered a number of regulatory mechanisms and sought the opinion of interested parties on their feasibility in the local context. A decision is expected to be published in Q2 of 2010.

## 8. Local Loop Unbundling

Following an extensive exercise that commenced in late 2008, the MCA issued a public consultation aimed at proposing a number of improvements to the processes, SLAs and the general terms and conditions of GO plc's RUO. The RUO is published in accordance with its regulatory obligations as the undertaking having SMP in the fixed access market. It sets out the terms and conditions which permit the leasing to third parties of the final part of the company's infrastructure in order to allow alternative operators to offer telephony and broadband services. A decision is expected to be published by Q2 of 2010.

## 9. Review of Number Portability Wholesale Charging

During 2009, the MCA embarked on an exercise to review the wholesale number portability charges and consequently consulted on the proposed rates. After taking into consideration the feedback received, the MCA re-consulted with the PATS providers in December 2009. A decision is expected to be published by Q2 2010.

## 10. Market Analysis:

### Wholesale Fixed Termination Market

In this consultation, the MCA identified five markets, one for each operator providing wholesale call termination services over its own network. For each one of these markets, the MCA analysed a number of economic criteria to determine whether any market player enjoys SMP. The MCA identified each undertaking operating in these five markets as having SMP in the provision of termination services over its own network. The MCA identified a number of potential competition problems that may arise in these markets and therefore imposed a set of remedies to counteract these problems. Amongst the remedies imposed is the obligation to provide interconnection services at a cost-oriented price and the obligation to publish a reference interconnection offer.

## 11. Market Analysis: Fixed Retail Access Services Market

The retail fixed access services market was divided into three further sub-markets for different types of fixed access offered to retail customers. In its consultation document, the MCA concluded that the three markets present signs of competition where no operator is able to act independently of its competitors thereby distorting competition. Consequently, the MCA proposed to withdraw existing regulatory controls from this market. The final decision on this market is expected to be published in 2010.

## 12. Market Analysis: Fixed Call Origination Market

In the review of the wholesale fixed call origination market, the MCA identified one market where all operators providing fixed calls at retail level were identified as being able to provide wholesale call origination services. On the basis of this definition, the MCA carried out its market analysis and determined that GO plc has SMP in this particular market. The Authority identified a number of competition problems that may arise in this market and mandated a set of remedies to ensure that such problems are circumvented. The final decision is expected to be published in January 2010.

# LEGAL MATTERS

## 1. EU Electronic Communications Framework Review

The amendments to the current EU electronic communications framework were approved by the EU in December 2009. These amendments include substantial changes to the Framework, Access, Authorisation, Universal Services and Privacy in Electronic Communications Directives. A cross-disciplinary team within the MCA was set up to draft proposals to Government on how to implement the various changes that the EU introduced to this framework. A consultation process will be undertaken to enable all stakeholders to make their submissions on the proposed changes to the current national legislative regime. Subsequently changes to the applicable legislation will be taken forward. In line with the approach taken by the EU, the MCA will be considering what measures can be introduced to enhance end-user protection. More information regarding the new EU framework is available on page 56 of this report.

## 2. Legal Amendments During 2009

In June 2009, the Ministry for Infrastructure, Transport and Communications, together with the MCA, issued a consultation on amendments to various communications laws. In the first part of the consultation, amendments were proposed relating to the use and authorisation of radiocommunications apparatus with the Radiocommunications Act being repealed and a new part inserted in the Electronic Communications (Regulation) Act, thereby having one comprehensive primary law dealing with electronic communications.

Ancillary to these amendments, the consultation also proposed regulations on specific matters primarily of technical detail relating to the use of radiocommunications equipment. The second part focused on amendments to the Postal Services Act and to the Postal Services (General) Regulations. These amendments to postal laws were motivated, in part, by the need to update Maltese law in line with recent changes in EU legislation and to ensure a level playing field for all undertakings competing in the relevant postal markets. These amendments pave the way for a transition from a framework that essentially centres around one universal service provider to one that potentially deals with a multi-player sector. The regulations for example, introduced the concept of 'postal identifier' whereby a postal operator is required to affix, impress or print on a postal article a postage stamp, postmark or impression.

Following an evaluation of the responses received, Bill number 39 amending such laws was published. It is envisaged that this Bill will be discussed and approved by Parliament in the first half of 2010. The approval of this law will then be followed by the making of various regulations in line with the proposals made in the above-mentioned consultation.

**Radio spectrum licensing regime:** In 2009, the MCA continued its exercise to revise the licensing regime of certain types of radiocommunications equipment with the intention of rationalising fees related to spectrum usage and equipment licensing. This year's activity focused on the licensing aspects of satellite and fixed microwave links equipment. The main recommendations were related to the replacement of individual licences by general authorisations in

those instances where individual radio frequency assignment was not required and where there were no risks of interference. Changes were also made to the fee structure in order to relate fees directly to the radio frequency bandwidth utilised. These regulations are expected to be adopted in the first quarter of 2010.

## LITIGATION DURING 2009

### 1. The Court of Appeal (Inferior)

Until the end of 2009, there was one pending appeal before the Court of Appeal (inferior jurisdiction) that was lodged from a decision given by the Communications Appeals Board.

During 2009, two appeals were decided by the Court of Appeal (inferior) following appeals from decisions taken by the Communications Appeals Board. During the same period one new appeal was filed by Melita plc.

The Court did not uphold an appeal by the MCA, whereby the MCA had contested a decision of the Appeals Board in relation to a fine it had imposed on Webwaves Limited. The Court upheld an appeal by the MCA whereby the MCA had contested a decision by the Appeals Board, whereby this Board had directed the MCA to reassess the various bids made in connection with the BWA frequency assignment in 2005. The case was referred back to the Appeals Board as the Court determined that the Appeals Board had decided the case on a point which was not raised by either of the parties.

### 2. Court of First Instance

Lija Local Council, together with various residents, filed a lawsuit against Melita plc, a local resident and the MCA, requesting the removal of a base station from private premises. The case has been adjourned for the purpose of examining technical expert reports and subsequent submissions before the Court.

### 3. Communications Appeals Board

The number of new appeals before the Appeals Board has continued to diminish, with only three new appeals filed during the course of 2009. All three appeals were filed by Melita plc. Two of these appeals contested a decision taken by the MCA with regard to commercial offers, made to Melita plc, by GO plc and Vodafone (Malta) to provide redundancy in the context of international connectivity. The other appeal related to the contestation by Melita plc of the quantum of an administrative fine imposed by the MCA following the failure to submit, in good time, audited gross revenue statements for basis year 2007.

### 4. Inter-Operator Disputes

In 2009, four disputes, relating to allegations of excessive delays in number porting, were lodged. Three of these disputes were lodged by Melita plc, with the remaining dispute filed by Vodafone (Malta). The dispute by Vodafone was withdrawn whereas the disputes by Melita plc were all decided, whereby Melita's claims were not found to be justified.

# ONGOING REGULATORY ACTIVITY

## 1. Notifications by Service Providers - MVNOs

In the last few years, the market experienced a number of new entrants offering mobile services as enhanced service providers or mobile virtual network operators. In the latter part of 2009, two service providers notified as PATS providers using this facility with the intention of commencing their operation in 2010. The register of authorised undertakings was updated accordingly.

## 2. Local Loop Unbundling

As part of its review of GO plc's RUO mentioned previously, the MCA engaged in a series of discussions with interested undertakings with the objective of proposing a number of adjustments by means of a public consultation. These adjustments will translate into an enhanced and more structured offer, thereby eliminating any a priori stumbling blocks as well as minimising the possibility of disputes between the parties following signature of the agreement. To this end, the MCA engaged in discussions with GO plc to ensure the correct interpretation and understanding of the Offer with particular reference to the processes and service level agreement. On the other hand, an authorised undertaking, who showed interested in the Offer, asked the MCA to intervene on certain aspects of the Offer. A public consultation was launched and the feedback received proved to be instrumental in ensuring that all aspects of the RUO are adequately addressed.

## 3. International Connectivity

In January 2009, the International Connectivity (Continuity of Operation) Regulations (S.L. 399.30 of the Laws of Malta) were brought into force. The making of these regulations was preceded by a consultation process with the stakeholders. These Regulations aim to ensure that international gateway operators in Malta adopt appropriate measures to safeguard the integrity and resiliency of the network elements that provide international connectivity. The Regulations also require undertakings to put in place adequate capacity or ensure an adequate level of uninterrupted international connectivity by alternative measures. The MCA is periodically monitoring the situation to ensure that international gateway operators comply with the requirements of the law. In one instance, MCA initiated regulatory measures to ensure compliance.

## 4. Short-codes awarded

During 2009, the Authority received requests for four short codes of which three were granted.

## 5. Review of Regulatory Accounts

Regulatory accounts are one of the tools used by the MCA to ensure compliance by operators with their legal obligations arising from various market analyses. The MCA regularly makes reference to information presented in the regulatory accounts when formulating decisions, such as those on termination rates, leased lines and so on. It is therefore essential that the data submitted in the regulatory accounts conforms to the decisions issued by the Authority, on this subject, to ensure that data submitted by different service providers is comparable.

Throughout the year under review, the MCA undertook reviews of the regulatory accounts to:

- review the pertinent cost accounting guidelines and methodologies used in preparing the regulatory accounts;
- analyse underlying results and performance of business segments; and
- identify those areas where the MCA needs to develop further regulatory guidance.

## 6. The Digital Switchover

In February 2009, the Minister for Infrastructure, Transport and Communications launched Government's Policy and Strategy on Broadcasting that meets GIO. This Policy strengthens, amongst others, pluralism in television broadcasting and safeguards the public's right to free access of information. The Policy and Strategy denoted the start of a digital switchover (DSO)

programme – a series of tasks that will lead to analogue broadcasting turn-off, at which point, all free-to-air terrestrial television broadcasting will be switched to digital.

The Digital Switchover Committee (DSOC) was instituted by Government to direct and coordinate all the key activities and to ensure a smooth switchover to digital within the stipulated time frames. The DSOC is constituted as follows:

- Malta Communications Authority (MCA), Chair.
- Broadcasting Authority (BA), Member – the BA is the national regulatory authority responsible for television and radio broadcasting.
- Office of the Prime Minister (OPM), Member – the OPM is responsible for the policy and strategy direction of the BA and for broadcasting policy.
- Ministry for Infrastructure, Transport and Communications (MITC), Member – the MITC is responsible for the National Frequency Plan.
- Minister of Education, Employment and the Family (MEEF) – the MEEF is responsible for the state broadcaster, PBS Ltd, which has been appointed as the network operator for broadcasting that meets GIO.

# INTERNATIONAL & EUROPEAN COLLABORATION

## 1. eInclusion i2010 SubGroup

The Authority participates in the eInclusion subgroup, where representatives of EU Member States work together and exchange knowledge and expertise on eInclusion.

The aim of this subgroup is to exchange information on how people, who are socially excluded, can make use of ICTs to improve their economic performance, employment opportunities, quality of life and social participation. The MCA will host a sub-group meeting in 2010.

## 2. GALILEO

Galileo is the European Union's initiative aimed at deploying a state-of-the-art global satellite navigation system, providing a highly accurate, guaranteed global positioning service under civilian control. At the same time, Galileo will be interoperable with the United States Global Positioning System (GPS) and the Russian equivalent, GLONASS. The fully deployed Galileo system will consist of 30 satellites and the associated ground infrastructure. The European Commission took charge of the European satellite navigation projects, European Geostationary Navigation Overlay Service (EGNOS) and Galileo, in 2008.

The Authority participates in several meetings which fall under the Galileo dossier, namely the European Global Navigation Satellite Systems (GNSS) Supervisory Authority Board, the GNSS Committee, the GNSS Security Board (SB), the Working Group of the National Experts Team (WG-NET), the Council Security Committee GNSS Expert Formation and the Council Security Committee Sub-Area for Global Monitoring for Environment and Security (GMES) Data Security.



# HUMAN RESOURCES & OTHER CORPORATE INITIATIVES

## 1. Information Management

Information is one of the key assets of the Authority as it is integral to its business outputs and outcomes. During the past year, the Authority continued to build on its strategic information planning and management process through a series of initiatives. A number of significant information initiatives were completed in 2009, including;

- A best practice review of the Authority's IT strategic planning processes;
- A preliminary IT needs assessment;
- Recommended principles to guide IT strategic planning;
- Policies and procedures for all core IT functions;
- A business continuity plan covering all potential threats;
- Improved technical infrastructure; and
- A workflow system supporting the core processes of the organisation.

Building on the foundation of the information strategy, 2010 will be a challenging year for the Information management team in terms of planned initiatives such as the implementation of the Statistical Analysis Management System (SAMS), continued implementation of the Enterprise Resource Management System (ERMS), developing systems and processes to support effective information management and project management across the organisation and continuing to build on the effectiveness of staff information management training to support best practices.

## 2. Statistical Analysis Management System (SAMS)

The implementation of a SAMS is one of the most challenging information management projects for the MCA. This information system caters for the coordinated, architected and periodic collating of data such as market statistics and operators' data, from various sources, which is then fed into a data warehouse environment that is optimised for analytical and informational processing. In order to ensure the best possible business Information Systems (IS) alignment, the MCA is involving stakeholders in all stages of the development life-cycle. The project is currently underway and is expected to go live in the fourth quarter of 2010.

### 3. Enterprise Resource Planning (ERP)

As part of the ERP project, the MCA is currently implementing an integrated workflow management system to accommodate specific business process structures. This tool will allow the MCA to orchestrate all the business processes and information exchanges between units, support the automation of these business processes across organisational boundaries, share a common knowledge base in order to provide improved management and control, facilitate forecasting and scheduling workloads and streamline all the overall operations.

### 4. Human Resource Management

2009 saw the continued growth in recruitment with an additional 11 members of staff joining the MCA team, bringing the total number of employees to 72, of which 10 are dedicated to information society related activities. In addition, the Authority also launched a new summer students recruitment programme whereby seven undergraduates joined the MCA for a period of four months. It is anticipated that this programme will continue during 2010.

# OTHER WORKSTREAMS

## 1. Review of Administrative Fees

The Postal Services (General) (Amendment) Regulations were adopted in early 2009. These Regulations revised the administrative fees payable by postal operators authorised to provide services outside the scope of the universal services. The fees were reduced, thus minimising the administrative costs on such operators. The annual fee payable by postal service operators, authorised to provide services outside the scope of the universal services, was reduced to €150. Postal service undertakings, which operate within this category and whose gross revenue does not exceed €24,300 have been exempted from the payment of such fees.

## 2. Revision of Roaming Regulation

For a number of years, the European Commission warned mobile operators across Europe that the tariffs for mobile roaming, which is the service that allows subscribers to use a mobile phone abroad, were excessively high. This state of affairs led to the adoption of the first Roaming Regulation in 2007 and then to its amendment, adopted in 2009.

During the discussions that followed the two Commission proposals between 2006 and 2009, the MCA was extensively involved in the discussions taking place at various levels. At a local level, the MCA consulted with interested players and also provided continuous advice to Government with respect to the position it was taking in the relevant Community fora. The MCA also contributed to the work carried out by the ERG in this context.

The first Roaming Regulation ensured that users of public mobile services are not paying excessive prices for roaming services when making and receiving calls while

travelling within the European Union, in particular by establishing a 'Eurotariff', which sets a maximum per minute price limit that mobile operators can charge for calls, made and received, within the European Union.

The second Roaming Regulation will now also enable users to benefit from the 'Euro-SMS tariff' which has been set at €0.11. It also adds data services to the list of regulated roaming mobile services and ensures that information about pricing is more transparent by obliging mobile service providers to give free personalised information on roaming charges to their customers. In addition, service providers will regularly have to provide all their customers with the latest roaming charges.

The existing 'Eurotariff' will continue to be further reduced till 2011. Mobile operators are able to charge users a flat rate for the first 30 seconds of each call. However, they are obliged to charge users on a per second basis following the first 30 seconds.

Moreover, the new Regulation requires mobile operators to reduce drastically their wholesale charges for data services. The reduction of these charges should enable mobile operators to lower the retail tariffs paid by subscribers to, for example, read emails or access the Internet. Member States and the European Commission will be monitoring these tariffs to analyse whether these are actually reduced over time through competitive forces.

The MCA engaged with all mobile operators upon entry into force of the new Regulation in summer 2009. This exercise resulted in a number of tariffs which had to be adjusted in order to be fully compliant with the new Regulation. One of the positive outcomes was that, during this process, competitive forces finally led to

the removal of the “top-up” charge which used to be deducted from mobile prepaid customers' credit.

As from March 2010, mobile operators will be obliged to provide their customers with a facility which presents information about the usage of data expressed either in volume of data (for example megabytes) or in Euros spent. Mobile operators are also obliged to introduce a system where one can choose a financial or volume limit to control data usage consumption.

### 3. Guidelines on Appropriate Sanctions

In line with the provisions at law, the MCA initiated work on the preparation of internal guidelines to assist the Authority in determining the quantum of administrative fines and other regulatory sanctions appropriate to the alleged breach of a law, decision or directive enforced by the Authority. It is expected that these guidelines will be finalised in the first half of 2010.

### 4. Assignment of Rights of Use of GIO Frequencies

Following the establishment of the policy and strategy on broadcasting that meets GIO, in 2009 the MCA prepared the relevant instrument to authorise the rights of use of radio frequency spectrum for the establishment of a terrestrial digital television network for television broadcasting meeting GIO. These rights of use are expected to be granted in 2010.

### 5. Pan-European Mobile Satellite Services (MSS)

A mobile satellite service is a service provided by a satellite system, which communicates with portable terrestrial terminals. Mobile satellite services can, amongst other things, provide wireless broadband, mobile television and mobile telephony applications.

In 2007, the European Commission identified spectrum in the 2GHz frequency band for the provision of pan-European MSS. Given that these services use radio spectrum that crosses national borders, in August 2008, the European Commission published a call for applications for pan-European systems providing MSS. The procedure for the common selection of operators of MSS was established by Decision 626/2008/EC. In this regard, pursuant to this decision, a tender was issued by the European Commission inviting prospective bidders to submit bids. Following the evaluation process, the European Commission published Decision 2009/499/EC of the European Commission on the result of the selection process of operators of pan-European systems providing mobile satellite services in the 2GHz frequency band. As a result, the Authority drafted the licences which will eventually be granted to the two successful applicants, namely Inmarsat Ventures Limited and Solaris Mobile Limited. It is expected that these licences will be granted during 2010.

### 6. Market-based approaches to Spectrum Management – Spectrum Trading

Spectrum trading, which enables a rights holder to the transfer of rights to use radio spectrum and associated obligations to a third party, is a powerful way of allowing market forces to manage the assignment of radio spectrum rights and associated obligations. It is a significant step towards a market-based spectrum management regime.

In line with the Strategic Framework for the Management of the Radio Spectrum 2007 – 2010, during 2009 the MCA carried out an exercise to establish the high level parameters of a framework that would allow a gradual move to spectrum trading in specific bands subject to sufficient safeguards. In 2010, the MCA is



expected to consult on a set of arrangements to facilitate the transfer of part or all of a spectrum licence holder's existing rights and obligations to third parties. The responses to this consultation will enable the MCA to make informed recommendations to Government on the introduction of spectrum trading regulations, outlining the rules and rights and obligations for all parties involved.

#### **7.** Development of a New Regulatory Approach for Postal Services.

Directive 2008/06/EC adopted in February 2008, identified 2010 and for some Member States the end of 2012, as the final deadline for the full opening of the postal sector. Malta was among those Member States which were given the faculty to retain the reserved area for its designated universal service provider – MaltaPost plc - until no later than the end of 2012.

The complete liberalisation of the sector means that the MCA must rethink its existent regulatory approach to be able to regulate the sector in a fully liberalised environment. The regulatory paradigm should therefore shift from one that centres essentially on one universal service provider to a framework which deals with a multi-player environment and the competitive reality that this brings with it. The new regulatory framework,

however, should continue to safeguard consumers' interests by ensuring the continued provision of the universal services at specified quality of service levels.

To this end, during 2009, the MCA started to work on the development of a new regulatory approach for the postal sector to be introduced upon full liberalisation of the sector in 2012. During 2010, the MCA intends to consult on this regulatory approach which would aim at ensuring a level playing field for all undertakings competing in the relevant postal markets.

#### **8.** Frequency Coordination of Broadcasting Bands

During 2009, the Authority continued with its efforts to strengthen the relationship with its neighbouring states in the field of electronic communications, including spectrum management. In this regard, a meeting was held with officials from the Libyan spectrum management authorities where, amongst others, issues relating to the provision of digital broadcasting services were discussed. The MCA continued with its liaison with Italy particularly in spectrum matters relating to the provision of broadcasting services, as well as to cases of harmful interference.

# FINANCIAL PERFORMANCE

## GENERAL INFORMATION

THE MALTA COMMUNICATIONS AUTHORITY WAS ESTABLISHED BY VIRTUE OF THE MALTA COMMUNICATIONS AUTHORITY ACT, CAP. 418 OF THE LAWS OF MALTA.

## MEMBERS OF THE AUTHORITY

Ing. P. Micallef  
(Executive Chairman)

Dr. R. Balzan  
(resigned on 20 September 2009)

Mr. I. Bartolo

Mr. M. Cutajar

Dr. A. Ghio

Ms. B. Sullivan

Ms. A. Vassallo

## BANKERS

Bank of Valletta plc  
Preluna Towers  
Tower Road  
Sliema  
MALTA

## HEAD OFFICE

Valletta Waterfront  
Pinto Wharf  
Floriana FRN 1913  
MALTA

## AUDITORS

Ernst & Young  
Certified Public Accountants  
Regional Business Centre  
Achille Ferris Street  
Msida MSD 1751  
MALTA

# REPORT OF THE MEMBERS OF THE AUTHORITY

The Members of the Authority submit their report together with the audited financial statements for the year ended 31 December 2009.

## 1. Principal Activity

The Malta Communications Authority was established by virtue of the Malta Communications Authority Act, Cap. 418 of the Laws of Malta for the purposes of carrying out the functions defined in the said Act. By virtue of Legal Notice 280 of 2000 the Minister for Transport and Communications nominated the Malta Communications Authority to be the Competent Authority to regulate communications services in Malta with effect from 1 January 2001.

Furthermore, by virtue of Legal Notice 835 of 2004, the Minister for Competitiveness and Communications nominated the Malta Communications Authority to fulfil the functions for the management of authorisations in respect of apparatus for which a frequency assignment is required, or used by merchant ships or other seagoing vessels, with effect from 30 July 2004.

## 2. Results

By virtue of the Electronic Communications (Regulation) Act and in accordance with the Electronic Communications Networks and Services (General) Regulations, 2004 a new regulatory framework came into force as from 14 September 2004, which replaced

the individual licensing regime. Authorised undertakings shall pay the Authority administrative charges to cover the costs incurred by the Authority and fees for rights of use of scarce resources.

The total net operating income generated by the Authority during the year amounted to EUR12,515,920 out of which licensing and usage fees for scarce resources, amounting to EUR8,857,684, were transferred to the Government of Malta. After meeting all expenditure of EUR3,506,090 the Authority closed off the year with a surplus, net of taxation, of EUR145,175.

Expenditure incurred by the Authority not in connection with electronic communications, amounting to EUR277,089, has been deducted from usage fees for scarce resources forwarded to government.

## 3. Members of the Authority

The Members who served during the year under review were as noted on page 103.

In accordance with Part II, Section 3 of the Malta Communications Authority Act, Cap. 418 of the Laws of Malta, the Chairman and the other Members of the Authority are appointed by the Minister responsible for communications. The Members of the Authority are appointed by the Ministry for a maximum period of three years but may be re-appointed on the expiration of their term of office.

#### 4. Statement of Responsibilities of the Members of the Authority

The Malta Communications Authority Act, Cap. 418 of the Laws of Malta section 20 requires the Authority to keep proper books of accounts and other records in respect of its operations and to prepare a statement of accounts in respect of each financial year.

#### 5. Auditors

Ernst & Young have expressed their willingness to continue in office and a resolution for their re-appointment will be proposed at the board member's meeting.

The report of the Members was approved and signed on their behalf by:



P. Micallef  
Executive Chairman



I. Bartolo  
Deputy Chairman

Valletta Waterfront  
Pinto Wharf  
Floriana FRN 1913  
MALTA

12 April 2010

# INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF MCA

We have audited the financial statements of Malta Communications Authority set out on pages 107 to 128 which comprise the statement of financial position as at 31 December 2009 and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended and a summary of significant accounting policies and other explanatory notes.

## 1. Members' Responsibility for the Financial Statements

The members are responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards as adopted by the European Union and the requirements of the Malta Communications Authority Act, Cap. 418 of the Laws of Malta. As described in the statement of members' responsibilities on page 105 this responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

## 2. Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend

on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate for the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the members, as well as evaluating the overall presentation of the financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

## 3. Opinion

In our opinion, the financial statements:

- give a true and fair view of the financial position of the Authority as at 31 December 2009 and of its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards as adopted by the European Union; and
- have been properly prepared in accordance with the requirements of the Malta Communications Authority Act, Cap. 418 of the Laws of Malta.

This copy of the audit report has been signed by Mario P. Galea for and on behalf of



Ernst & Young  
Certified Public Accountants

12 April 2010

# STATEMENT OF COMPREHENSIVE INCOME

FOR THE YEAR ENDED 31 DECEMBER 2009

	Notes	2009 EUR	2008 EUR
<b>Income</b>			
Revenues	3	<b>12,416,333</b>	7,965,476
Other income	4	<b>99,587</b>	115,937
		<b>12,515,920</b>	8,081,413
<b>Expenditure</b>			
Staff costs	5	<b>(1,841,679)</b>	(1,461,878)
Depreciation	11	<b>(272,456)</b>	(239,900)
Operating and administrative expenses	6	<b>(1,391,955)</b>	(1,000,328)
		<b>9,009,830</b>	5,379,307
<b>Operating surplus</b>			
Finance income	7	<b>72,244</b>	93,027
Finance costs	8	<b>(6,086)</b>	(6,112)
		<b>9,075,988</b>	5,466,222
Transfer to government	9	<b>(8,857,684)</b>	(5,258,526)
Surplus before taxation		<b>218,304</b>	207,696
Taxation	10	<b>(73,129)</b>	(54,368)
<b>Surplus for the financial year</b>			
Other comprehensive income		-	-
<b>Total comprehensive income for the year, net of tax</b>			
		<b>145,175</b>	153,328

The accounting policies and explanatory notes on pages 111 to 128 form an integral part of the financial statements.

# STATEMENT OF FINANCIAL POSITION

AS AT 31 DECEMBER 2009

	Notes	2009 EUR	2008 EUR
<b>ASSETS</b>			
<b>Non-current assets</b>			
Property, plant and equipment	11	506,795	577,570
<b>Current assets</b>			
Trade and other receivables	12	2,085,233	2,479,765
Cash and short-term deposits	16	2,166,028	1,428,557
		<b>4,251,261</b>	3,908,322
<b>TOTAL ASSETS</b>		<b>4,758,056</b>	4,485,892
<b>EQUITY AND LIABILITIES</b>			
<b>Reserve</b>			
Retained earnings	13	468,156	331,313
<b>Non-current liabilities</b>			
Finance lease liability	17	-	5,727
<b>Current liabilities</b>			
Trade and other payables	14	4,228,236	4,096,326
Income tax payable		61,664	52,526
		<b>4,289,900</b>	4,148,852
<b>Total liabilities</b>		<b>4,289,900</b>	4,154,579
<b>TOTAL EQUITY AND LIABILITIES</b>		<b>4,758,056</b>	4,485,892

The accounting policies and explanatory notes on pages 111 to 128 form an integral part of the financial statements.

The financial statements on pages 107 to 128 have been authorised for issue by the Members on 12 April 2010 and were signed on their behalf by:



P. Micallef  
Executive Chairman



I. Bartolo  
Deputy Chairman

# STATEMENT OF CHANGES IN EQUITY

FOR THE YEAR ENDED 31 DECEMBER 2009

Retained earnings EUR

## FINANCIAL YEAR ENDED 31 DECEMBER 2009

Balance as at 31 December 2008	331,313
Surplus for the year	145,175
Other comprehensive income	-
Total comprehensive income	145,175
Unutilised subvention due to government (note 14)	(8,332)
<b>Balance at 31 December 2009</b>	<b>468,156</b>

## FINANCIAL YEAR ENDED 31 DECEMBER 2008

Balance as at 31 December 2007	177,985
Surplus for the year	153,328
Other comprehensive income	-
Total comprehensive income	153,328
<b>Balance at 31 December 2008</b>	<b>331,313</b>

The accounting policies and explanatory notes on pages 111 to 128 form an integral part of the financial statements.

# STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 31 DECEMBER 2009

	Notes	2009 EUR	2008 EUR
<b>Operating activities</b>			
Surplus before taxation		218,304	207,696
Non-cash adjustment to reconcile surplus before tax to net cash flows:			
Depreciation of property, plant and equipment		272,456	239,900
Transfers to government		8,857,684	5,258,526
Loss/(profit) on disposal of property, plant and equipment		896	(347)
Finance income		(72,244)	(93,027)
Finance costs		6,086	6,112
(Decrease)/increase in provision for doubtful debts		(5,947)	5,947
Working capital adjustments:			
Decrease/(increase) in trade and other receivables		399,302	(123,195)
Increase in trade and other payables		745,667	338,675
		10,422,204	5,840,287
Interest received		73,421	94,622
Interest paid		(6,086)	(4,578)
Income tax paid		(63,991)	(12,725)
<b>Net cash flows from operating activities</b>		10,425,548	5,917,606
<b>Investing activities</b>			
Proceeds from sale of property, plant and equipment		-	3,718
Purchase of property, plant and equipment		(202,577)	(285,136)
<b>Net cash flows used in investing activities</b>		(202,577)	(281,418)
<b>Financing activities</b>			
Funds paid to government		(9,451,142)	(5,443,375)
Payment of finance lease liability		(34,358)	(42,947)
<b>Net cash flows used in financing activities</b>		(9,485,500)	(5,486,322)
<b>Net increase in cash and cash equivalents</b>		737,471	149,866
Cash and cash equivalents at 1 January		1,428,557	1,278,691
<b>Cash and cash equivalents at 31 December</b>	16	2,166,028	1,428,557

The accounting policies and explanatory notes on pages 111 to 128 form an integral part of the financial statements.

# NOTES TO THE FINANCIAL STATEMENTS

## 1. General Information

The Malta Communications Authority (“the Authority”) was established on 1 January 2001 by virtue of the Malta Communications Authority Act Cap. 418 of the Laws of Malta. The Authority is a body corporate having a distinct legal personality with its legal representation jointly vested in the Chairman and the Director General.

The purpose of the Authority is to ensure freedom of communication and that communication shall not be limited except when this is necessary for any of the reasons set out in Section 4 (1)(a) of the Malta Communications Authority Act, Cap. 418 of the Laws of Malta and to ensure non-discrimination and equality of treatment in matters related to communications. It shall in particular be the duty of the Authority to exercise such regulatory function in the field of communications under the provisions of the Electronic Communications (Regulation) Act, Cap. 399 of the Laws of Malta and as may from time to time be assigned to the Authority by or under an Act of Parliament. The Authority shall also carry out various other related functions and duties as set out in Section 4 (3) of the Act.

## 2.1 Basis of Preparation and Statement of Compliance

The financial statements have been prepared under the historical cost convention and are presented in Euro. These financial statements are prepared in accordance with International Financial Reporting Standards (IFRS) as adopted by the EU and comply with the provisions of the Malta Communications Authority Act, Cap. 418 of the Laws of Malta. The accounting policies adopted are consistent with those applied during the previous years.

## 2.2 Changes in Accounting Policies and Disclosures

### Standards, interpretations and amendments to published standards as adopted by the EU effective in 2009

The accounting policies adopted are consistent with those of the previous financial period except as follows:

The Authority has adopted the following new and amended IFRS and IFRIC interpretations during the period. Adoption of these revised standards and interpretations did not have any effect on the financial performance or position of the Authority.

IAS 1	Presentation of Financial Statements
IAS 23	Borrowing Costs
IAS 32, IAS 1	Puttable Financial Instruments and obligations arising on liquidation
IAS 39	Reclassification of Financial Assets
IFRS 1, IAS 27	Amendments – Cost of an Investment in a Subsidiary, Jointly-Controlled Entity or Associate
IFRS 2	Share Based Payment: Vesting Conditions and Cancellations
IFRS 7	Amendments – Improving disclosures about Financial Instruments
IFRS 8	Operating Segments
IFRIC 13	Customer Loyalty Programmes
IFRIC 15	Agreements for Construction of Real Estate
IFRIC 16	Hedges of a Net Investment in a Foreign Operation
IFRIC 18	Transfer of Assets from Customers

IAS 1 has been revised to enhance the usefulness of information presented in the financial statements. In

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 2.2 Changes in accounting policies and disclosures continued

#### **Standards, interpretations and amendments to published standards as adopted by the EU effective – continued**

In addition, the standard introduces the statement of comprehensive income that combines all items of income and expense recognised in profit or loss together with “other comprehensive income”. The Authority has made the necessary changes to the presentation of its financial statements.

IAS 23, 32, 39, IFRS 2, 7, 8, IFRIC 13, 15 and 16 are not applicable to the Authority’s operations and hence had no impact on the financial position or performance of the Authority, neither did they give rise to additional disclosures.

#### **Improvements to IFRS**

In May 2008, the EU endorsed improvements to IFRSs issued by the International Accounting Standards Board. These improvements were issued, primarily with a view to removing inconsistencies and clarifying wording. There are separate transitional provisions for each standard. The Authority has adopted the amendments arising from the ‘Improvement to IFRS’ project. These amendments did not have any effect on the Authority’s financial statements.

#### **Standards, interpretations and amendments to published standards as adopted by the EU that are not yet effective**

Up to date of approval of these financial statements, certain new standards, amendments and interpretations to existing standards have been published but are not yet effective for the current reporting period and which the Authority has not early adopted.

These are as follows:

IAS 39, ‘Financial Instruments: Recognition and Measurement - Eligible Hedged Items’ (effective for financial years beginning on or after 1 July 2009). The amendment clarifies that an entity is permitted to designate a portion of the fair value changes or cash flow variability of a financial instrument as a hedged item. This also covers the designation of inflation as a hedged risk or portion in particular situations. The Authority has concluded that the amendment will have no impact on the financial position or performance of the Authority, as it has not entered into any such hedges.

IFRS 1 Revised ‘First Time Adoption of IFRS’ (effective for annual periods beginning on or after 1 July 2009). The revised version of the standard does not make any changes to the substance of accounting by first-time adopters but aims to improve its readability. IFRS 1 (revised) will not have any impact on the Authority’s financial statements.

IFRS 3 Revised ‘Business Combinations’ and IAS 27 Revised ‘Consolidated and Separate Financial Statements’ (effective for annual periods beginning on or after 1 July 2009). IFRS 3 (revised) introduces a number of changes in the accounting for business combinations occurring after this date that will impact the amount of goodwill recognised, the reported results in the period that an acquisition occurs and future reported results. IAS 27 (revised) requires that a change in the ownership interest of a subsidiary (without loss of control) is accounted for as an equity transaction. Therefore such transactions will no longer give rise to goodwill, nor will it give rise to a gain or loss. Furthermore the amended standard changes the accounting for losses incurred by the subsidiary as well as the loss of control of a subsidiary. Other consequential changes were made to IAS 7, IAS 21, IAS 28, IAS 31 and IAS 39. The

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 2.2 Changes in accounting policies and disclosures continued

amendments to IFRS 3 (revised) and IAS 27 (revised) will not have any impact on the financial position or performance of the Authority.

IFRIC 9 'Reassessment of Embedded Derivatives' and IAS 39 'Financial Instruments: Recognition and Measurement' – Embedded derivatives' (effective for annual periods beginning on or after 30 June 2009). These amendments require an entity to assess whether an embedded derivative must be separated from a host contract when the entity reclassifies a hybrid financial asset out of the fair value through profit or loss category. The amendments to IFRIC 9 and IAS 39 will not have any impact on the financial position or performance of the Authority.

IFRIC 17 'Distributions of Non-Cash Assets to Owners' (effective for annual periods beginning on or after 1 July 2009). IFRIC 17 provides guidance on how to account for non-cash distributions to owners. The interpretation clarifies when to recognise a liability, how to measure it and the associated assets and when to derecognise the asset and liability. The Authority does not expect IFRIC 17 to have an impact on the financial statements as the Authority has not made non-cash distributions to shareholders in the past.

#### **Standards, interpretations and amendments issued by the International Accounting Standards Board (IASB) but not yet adopted by the EU:**

The following standards, interpretations and amendments have been issued by the IASB but not yet adopted by the EU:

- IFRS 1 Amendments – Limited exemption from comparative IFRS 7 Disclosures for First-time Adopters
- IFRS 1 Amendments – Additional Exemptions for First Time Adopters

- IFRS 2 Amendments – Group Cash-settled Share Based Payment Transactions
- IFRS 9 – Financial Instruments
- IAS 24 Revisions – Related Party Disclosures
- IAS 32 Amendments – Classification of Rights Issue
- IFRIC 14 Amendments – Prepayment of a Minimum Funding Requirement
- IFRIC 19 – Extinguishing Financial Liabilities with Equity Instruments
- Improvements to IFRS – Second Omnibus Improvements to IFRSs issued on 16 April 2009

### 2.3 Summary of Significant Accounting Policies

The principal accounting policies adopted in the preparation of these financial statements are set out below:

#### **Revenue recognition**

Revenue is recognised to the extent that it is probable that the economic benefits will flow to the Authority and the revenue can be reliably measured.

The following specific recognition criteria must also be met before revenue is recognised:

Revenue from licences is recognised on the issue of a new licence or on the renewal date. Such revenue is recognised in the statement of comprehensive income over the year to which the licence relates. The unexpired portion of annual fees billed in advance is recognised as deferred income in the statement of financial position.

Administration charges consist of amounts receivable from operators in respect of costs incurred by the Authority in ensuring compliance with the regulatory framework.

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 2.3 *Summary of significant accounting policies continued*

#### Revenue recognition – *continued*

Usage fees consist of amounts collected by the Authority for rights of use of scarce resources as established under Part B of the Eleventh Schedule of the Electronic Communications Networks and Services (General) Regulations, 2004.

Government subvention contributed to the Authority through a vote in parliament is accrued for in accordance with the Authority's approved budget for the year.

Interest income is recognised as the interest accrues using the effective interest method.

#### Retirement benefit costs

The Authority contributes towards the state pension in accordance with local legislation and does not provide for other contributions or retirement benefit plans or pensions. Related costs are expensed during the period in which they are incurred.

#### Property, plant and equipment

Property, plant and equipment are stated at cost less accumulated depreciation and accumulated impairment losses. The initial cost of property, plant and equipment comprise its purchase price, including import duties and non-refundable purchase taxes and any directly attributable costs of bringing the asset to its working condition and location for its intended use. Expenditures incurred after the fixed assets have been put into operation, such as repairs and maintenance and overhead costs, are normally charged to the statement of comprehensive income in the period when they are incurred. In situations where it can be clearly demonstrated that the expenditures have resulted in an increase in the future economic benefits expected to

be obtained from the use of an item of property, plant and equipment beyond its originally assessed standard of performance, the expenditures are capitalised as an additional cost.

Depreciation is calculated using the straight-line method to write off the cost of the assets to their residual values over their estimated useful lives as follows.

	%
Building improvements	20
Computer equipment	17 - 33
Fixtures, fittings and equipment	10 - 20
Motor vehicles	20

The useful life and depreciation method is reviewed periodically to ensure that the method and period of depreciation are consistent with the expected pattern of economic benefits from items of tangible assets.

Collectables and antiques are not depreciated.

An item of property, plant and equipment is derecognised upon disposal or when no future economic benefits are expected from its use or disposal. Any gain or loss arising on derecognition of the asset is included in the profit and loss in the year the asset is derecognised.

#### Impairment of assets

The Authority assesses at each reporting date whether there is an indication that an asset may be impaired. If any such indication exists, or when annual impairment testing for an asset is required, the Authority makes an estimate of the asset's recoverable amount. An asset's recoverable amount is the higher of an asset's fair value less costs to sell and its value in use. Where the carrying amount of an asset exceeds its recoverable amount,

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 2.3 *Summary of significant accounting policies continued*

#### **Impairment of assets – *continued***

the asset is considered impaired and is written down to its recoverable amount. In assessing value in use, the estimated future cash flows are discounted to their present value using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the asset.

An assessment is made at each reporting date as to whether there is any indication that previously recognised impairment losses may no longer exist or may have decreased. If such indication exists, the recoverable amount is estimated. A previously recognised impairment loss is reversed only if there has been a change in the estimates used to determine the asset's recoverable amount since the last impairment loss was recognised. If that is the case the carrying amount of the asset is increased to its recoverable amount. That increased amount cannot exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in profit or loss unless the asset is carried at revalued amount, in which case the reversal is treated as a revaluation. After such a reversal the depreciation charge is adjusted in future periods to allocate the asset's revised carrying amount, less any residual value, on a systematic basis over its remaining useful life.

#### **Trade and other receivables**

Trade receivables are recognised and carried at original invoice amount. A provision for impairment is made when there is objective evidence that the Authority will not be able to collect all of the amounts due under the original terms of the invoice. The carrying amount of the receivable is reduced through use of an allowance account. Impaired debts are derecognised when they are assessed as uncollectable.

#### **Financial instruments**

Financial assets and financial liabilities carried on the statement of financial position include cash and cash equivalents, trade and other accounts receivable and payable. The accounting policies on recognition and measurement of these items are disclosed in the respective accounting policies found in this note.

Financial instruments are classified as liabilities or equity in accordance with the substance of the contractual arrangement. Interest, dividends, gains and losses relating to a financial instrument classified as a liability are reported as expense or income as incurred. Distributions to holders of financial instruments classified as equity are charged directly to equity. Financial instruments are offset when the Authority has a legally enforceable right to offset and intends to settle either on a net basis or to realise the asset and settle the liability simultaneously.

The de-recognition of a financial instrument takes place when the Authority no longer controls the contractual rights that comprise the financial instrument, which is normally the case when the instrument is sold, or all the cash flows attributable to the instrument are passed through to an independent third party.

#### **Cash and short-term deposits**

Cash and short-term deposits in the statement of financial position comprise cash at banks and on hand and short-term deposits with an original maturity of three months or less.

For the purposes of the statement of cash flows, cash and cash equivalents consist of cash and short-term deposits as defined above, net of outstanding bank overdrafts.

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 2.3 *Summary of significant accounting policies continued*

#### **Trade and other payables**

Liabilities for amounts payable are carried at cost which is the fair value of the consideration to be paid in the future for goods and services received. Trade and other payables are recognised when the Authority has a present obligation whether or not billed to the Authority.

#### **Taxation**

The charge for current taxation is based on the results for the year as adjusted for items which are non-assessable to or disallowed for tax. It is calculated using tax rates that were applicable at the statement of financial position date.

#### **Deferred taxation**

Deferred taxation is determined under the liability method in respect of all material temporary differences between the carrying amount of an asset or liability in the statement of financial position and its tax base. Deferred income tax assets and liabilities are measured at the tax rates that are expected to apply to the year when the asset is realised or the liability is settled, based on tax rates (and tax laws) that have been enacted or substantively enacted at the balance sheet date.

Deferred tax is recognised as income or expense and included in the statement of comprehensive income for the period, except to the extent that the tax arises from a transaction or event which is recognised directly in equity.

Deferred tax assets are recognised only to the extent that future taxable profits will be available such that realisation of the related tax benefit is probable.

#### **Foreign currencies**

The Authority's financial statements are presented in Euro, which is the Authority's functional and presentation currency. Transactions in foreign currencies have been converted into Euro at the rates of exchange ruling on the date of the transaction. Monetary assets and liabilities denominated in foreign currencies have been translated into Euro at the rates of exchange ruling at the statement of financial position date. All resulting differences are taken to the profit or loss.

#### **Leases**

The determination of whether an arrangement is, or contains a lease is based on the substance of the arrangement at inception date of whether the fulfilment of the arrangement is dependent on the use of a specific asset or assets or the arrangement conveys a right to use the asset. A reassessment is made after inception of the lease only if one of the following applies:

- a. There is a change in contractual terms, other than a renewal or extension of the arrangement;
- b. A renewal option is exercised or extension granted, unless the term of the renewal or extension was initially included in the lease term;
- c. There is a change in the determination of whether fulfillment is dependant on the specified assets; or
- d. There is a substantial change to the asset.

Where a reassessment is made, lease accounting shall commence or cease from the date when the change in circumstances gave rise to the reassessment for scenarios (a), (c) or (d) and at the date of renewal or extension period for scenario (b).

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### **2.3** *Summary of significant accounting policies continued*



Operating lease payments are recognised as an expense in the income statement on a straight line basis over the lease term.

Finance leases which substantially transfer all risks and benefits incidental to ownership of the leased items are capitalised at the inception of the lease at the fair value of the leased property. Lease payments are apportioned between finance charges and reduction of the lease liability so as to achieve a constant rate of interest on the remaining balance of the liability. Capitalised

leased assets are depreciated over the estimated useful life of the asset if there is reasonable certainty that the Authority will obtain ownership by the end of the lease term. Finance charges are recognized in the profit or loss.

#### **Related parties**

The term 'related party' refers to other Government controlled entities.

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 3. Revenues

#### THE REVENUES GENERATED BY THE AUTHORITY ARE MADE UP OF:

	2009 EUR	2008 EUR
Telecommunications, postal licensing and right of way (note i, ii)	736,401	736,879
Administrative charges	2,472,073	2,415,885
Usage fees for scarce resources (note ii)	8,738,771	4,803,500
Application fees and other income	9,088	9,212
Government subvention (note iii)	460,000	-
	<b>12,416,333</b>	7,965,476

i. Fees for right of way are collected by the Authority and transferred to Government under the Utilities and Services (Regulation of Certain Works) Act (Cap 81) under the delegation of the Malta Transport Authority.

ii. All revenue generated from telecommunications, postal licensing and right of way income and usage fees for scarce resources is transferred to the Government of Malta (note 9), except for an amount of EUR277,089 intended to finance expenses incurred by the Authority not in connection with electronic communications.

iii. The subvention received from government is used to finance ISS operations. This subvention is approved annually through a vote in parliament.

#### 4. Other Income

Other income relate to fines imposed by the Authority in 2009, where such fines had amounted to EUR99,587 (2008: EUR115,937).

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 5. Employee Information

#### a. Staff costs

The total employment costs were as follows:

##### THE AUTHORITY

	2009 EUR	2008 EUR
Members' emoluments	183,556	131,229
Wages and salaries	1,482,772	1,251,576
Social security costs	91,894	79,073
Authority's staff costs recharged to ISS operations (note i)	(67,176)	-
	<b>1,691,046</b>	1,461,878

- i. This amount relates to staff costs incurred by the Authority for ISS related activities. This is included in ISS Operating and administrative expenses in note 6.

##### ISS

	2009 EUR	2008 EUR
Members' emoluments	8,849	-
Wages and salaries	131,108	-
Social security costs	10,676	-
	<b>150,633</b>	-
<b>Total staff costs</b>	<b>1,841,679</b>	1,461,878

#### b. Staff numbers

The average number of persons, excluding board members, employed by the Authority during the year was 73 (2008 : 54).

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 6. Operating and Administrative Expenses

	2009 EUR	2008 EUR
<b>The Authority</b>		
Outsourced project costs	376,769	270,397
Corporate administrative expenses	444,951	434,333
Public relations and communications	55,886	38,917
Travelling expenses	98,077	109,021
(Decrease)/increase in provision for doubtful debts	(5,947)	5,947
Auditors' remuneration	8,500	7,700
Rental expenses	68,882	74,878
Loss/(profit) on disposal of property, plant and equipment	895	(347)
Administrative Services rendered by Ministry for Competitiveness and Communications	81,737	61,467
Bad debts/(bad debts recovered)	3,806	(1,985)
	<b>1,133,556</b>	<b>1,000,328</b>
<b>ISS</b>		
Public relations and communications	102,166	-
Travelling expenses	1,190	-
Audit fees	1,200	-
Professional fees	36,749	-
Gain/loss on exchange	33	-
Bank charges	27	-
Staff costs recharged by the Authority	67,176	-
Corporate administrative expenses	43,757	-
Rental expenses	6,101	-
	<b>258,399</b>	<b>-</b>
<b>Total operating and administrative expenses</b>	<b>1,391,955</b>	<b>1,000,328</b>

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 7. Finance Income

	2009 EUR	2008 EUR
On bank balances	58,040	71,899
On amounts due from debtors	14,204	21,128
	<b>72,244</b>	93,027

### 8. Finance Costs

	2009 EUR	2008 EUR
<b>On finance lease liability</b>		
The Authority	5,556	6,112
ISS	530	-
	<b>6,086</b>	6,112

### 9. Transfers to Government

These amounts represent the gross telecommunications, postal licensing and rights of way income and usage

fees for rights of use of scarce resources which is being transferred to the Government as provided by section 14 (4) of the Malta Communications Authority Act, Cap. 418 of the Laws of Malta.

### 10. Taxation

	2009 EUR	2008 EUR
Current tax	73,129	54,368
Deferred tax (note i)	-	-
	<b>73,129</b>	54,368

i. Under the legislation in force governing the operations of the Authority, the Authority charges administrative fees to the service providers equivalent to its cost. Moreover, all the license fees collected are transferred to the Government. Since the Authority is not expected to generate any taxable profits,

management is of the opinion that no deferred tax asset should be accounted for. Keeping in view this fact, the potential deferred tax asset amounting to EUR15,172 (2008: EUR10,361) has not been accounted for in these financial statements.

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 10. *Taxation continued*

The taxation on profit on ordinary activities differs from the theoretical taxation expense that would apply on the Authority's profit before transfers to Government and taxation using the applicable tax rate in Malta of 35% as follows:

	2009 EUR	2008 EUR
Profit before transfers to Government and taxation	<b>9,075,988</b>	5,466,222
Theoretical taxation expense at 35%	<b>3,176,596</b>	1,913,178
Tax effect of		
- non-deductible expenses	<b>(2,081)</b>	2,082
- income not subject to tax	<b>(3,120,836)</b>	(1,863,192)
- excess of depreciation over capital allowances	<b>19,913</b>	4,302
- income subject to different tax rates	<b>(463)</b>	(2,002)
	<b>73,129</b>	54,368

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 11. Property, Plant and Equipment

	Building improvements EUR	Computer equipment EUR	Fixture fitting & equipment EUR	Motor vehicle EUR	Total EUR
<b>Cost</b>					
At 1 January 2008	284,766	431,363	310,570	90,665	1,117,364
Additions	3,397	248,360	13,580	19,799	285,136
Disposals	-	(18,508)	(1,961)	(23,955)	(44,424)
At 31 December 2008	288,163	661,215	322,189	86,509	1,358,076
Additions	-	178,565	24,012	-	202,577
Disposals	-	(67,979)	(2,262)	-	(70,241)
<b>At 31 December 2009</b>	<b>288,163</b>	<b>771,801</b>	<b>343,939</b>	<b>86,509</b>	<b>1,490,412</b>
<b>Depreciation</b>					
At 1 January 2008	113,757	276,292	127,800	63,810	581,659
Depreciation charge for the year	57,633	125,251	45,161	11,855	239,900
Disposals	-	(16,703)	(395)	(23,955)	(41,053)
At 31 December 2008	171,390	384,840	172,566	51,710	780,506
Depreciation charge for the year	57,633	155,755	47,212	11,856	272,456
Disposals	-	(67,978)	(1,367)	-	(69,345)
<b>At 31 December 2009</b>	<b>229,023</b>	<b>472,617</b>	<b>218,411</b>	<b>63,566</b>	<b>983,617</b>
<b>Net book value</b>					
<b>At 31 December 2009</b>	<b>59,140</b>	<b>299,184</b>	<b>125,528</b>	<b>22,943</b>	<b>506,795</b>
At 31 December 2008	116,773	276,375	149,623	34,799	577,570

Included in the additions for the year is an amount of EUR26,010 in relation to ISS capital expenditure which is financed through the government subvention.

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 12. Trade and other Receivables

	2009 EUR	2008 EUR
Trade receivables (note i)	1,948,254	2,292,930
Accrued income	15,093	18,716
Prepayments	86,945	133,178
Other receivables	34,941	34,941
	<b>2,085,233</b>	2,479,765

i. Trade receivables are non-interest bearing and are generally on a 30 day term.

	Total EUR	Neither past due nor impaired EUR	Past due but not impaired			
			<30 days EUR	30-60 days EUR	60-90 days EUR	>90 days EUR
2009	1,948,254	479,254	-	1,189,779	962	278,259
2008	2,292,930	18,663	2,056,652	3,045	47,516	167,054

### 13. Reserve

The balance on the retained earnings in the statement of financial position as at 31 December 2009 represents the resulting accumulated surplus over the years.

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 14. Trade and other Payables

	2009 EUR	2008 EUR
Amount due to Government	95,818	71,787
Deferred income (note i)	3,213,471	3,125,196
Accruals	235,094	140,332
Social security contributions and other taxes	42,940	37,990
Other payables (note ii)	635,186	686,663
Finance lease liability (note 17)	5,727	34,358
	<b>4,228,236</b>	4,096,326

i. Deferred income comprises the unexpired portion of annual fees billed in advance together with the surplus of administrative charges, amounting to EUR865,772 paid by undertakings authorised to provide electronic communication services and/or operate electronic communications networks, over the administrative expenses incurred by the Authority in the discharge of its functions. The Authority shall make appropriate repayments or compensation in relation to such surplus in accordance with the Electronic Communications (Regulation) Act and the Directive of 2004, as amended by Directive No. 1 of 2007, on modalities of payment for general authorisations and rights of use.

A non-monetary government grant, representing assets transferred to the Authority during 2005 by the Government of Malta, amounting to EUR7,934 (2008: EUR11,898) is also included with deferred income.

ii. Other payables consist of the following:

- Funds due to the Malta Security Services in respect of Legal Intercept funds collected on its behalf. As per Directive No. 2 of 2005 on Modalities of Payment for Contributions to the Cost of Legal Intercept Obligations and in accordance with Regulation 13 of the Electronic Communications Networks and Services (General) Regulations, the Authority had introduced a fund mechanism for the sharing of the cost of legal interception obligations. As at 31 December 2009, Legal Intercept funds amounted to EUR420,599 (2008: EUR454,045). These are non interest bearing and are paid to Malta Security Services upon presentation of the invoice.
- An amount of EUR8,332 is due to Government relating to unutilised funds in respect of the ISS operations.
- Trade payables are non-interest bearing and are normally settled on 60-day terms.

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 15. Related Party Disclosures

#### Transactions with key management personnel

During the year ended 31 December 2009, short term employee benefits to key management personnel amounted to EUR434,713 (2008: EUR387,396).

#### Other related party transactions

The Authority has undertaken the following transactions with the Government of Malta as follows:

	2009 EUR	2008 EUR
Government Subvention – ISS (note i)	460,000	-
Payments to Government of Malta	9,451,142	5,443,375

(i) A total of EUR451,668 has been incurred during the year in relation to ISS operations. The remaining balance is shown in note 14 as amounts due to government.

#### Related party balances

Outstanding balances with related parties at 31 December 2009 are disclosed in note 14 on amount due to Government.

### 16. Cash and Short-Term Deposits

	2009 EUR	2008 EUR
Cash at bank and on hand	1,004,867	640,420
Short-term deposits	1,161,161	788,137
	2,166,028	1,428,557

The Authority holds interest earning and non-interest earning bank current accounts. An average interest of 3.73% per annum is earned on the bank interest earning account.

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 17. Commitments

#### Capital commitments

	2009 EUR	2008 EUR
Capital expenditure contracted but not provided for	44,972	40,426

#### Operating lease commitment

As of 15 December 2005, the Authority has entered into a commercial lease agreement relating to new premises, commencing on 1 May 2006. This lease may

be terminated at the end of the first lease period of four years. The future minimum rentals payable, excluding VAT, under these operating leases as at 31 December 2009 are as follows:

	2009 EUR	2008 EUR
Within one year	24,506	74,540
After one year but not more than five years	-	24,506
	24,506	99,046

#### Finance lease commitment

The Authority has a finance lease over the building improvements carried out on the leased premises by

VISET Malta plc. Future minimum payments under finance leases together with the present value of the net minimum lease payments are as follows:

	Minimum payments EUR	2009 Present value of payments EUR	Minimum Payments EUR	2008 Present value of payments EUR
Within one year	6,809	5,727	33,718	34,358
After one year but not more than 5 years	-	-	13,487	5,727
Total minimum lease payments	6,809	5,727	47,205	40,085
(Loss) amounts representing finance charges	(1,082)	-	(7,120)	-
Present value of minimum lease payments	5,727	5,727	40,085	40,085

## NOTES TO THE FINANCIAL STATEMENTS *CONTINUED*

### 18. Contingent liabilities

#### Legal claims

The Authority presently has a pending court case filed by Melita plc, contesting a decision given by the Authority in respect of open access obligations, in respect of which plaintiff is also claiming unquantified damages. The decision under appeal has not yet been enforced and no provision has been made in these financial statements since the outcome of such claim is unknown and cannot be quantified.

Melita plc is contesting a fine imposed by the Authority, with regard to adverts carried out by Melita on its Sports Channel (EUR23,290).

### 19. Financial instruments

At year-end, the Authority's main financial assets on the balance sheet comprise of trade and other receivables and cash at bank and in hand. At the year-end, there were no off-balance sheet financial assets.

At the year-end, the Authority's main financial liabilities on the balance sheet consisted of payables. The Authority's off-balance sheet financial liabilities at year-end are described in note 18 Contingent liabilities.

#### Timing of cash flows

The presentation of the financial assets and liabilities listed above under the current and non-current headings within the balance sheet is intended to indicate the timing in which cash flows will arise.

#### Credit risk

Financial assets which potentially subject the Authority to concentrations of credit risk consist principally of certain trade and other receivables and cash at bank.

The Authority's cash at bank are placed with quality financial institutions. Carrying amounts for trade receivables are stated net of the necessary impairment provisions which have been prudently made against bad and doubtful debts in respect of which management reasonably believes that recoverability is doubtful. Credit risk with respect to debts is limited due to a number of customers comprising the Authority's receivable base and the Authority has no significant concentration of credit risk.

#### Fair values

At 31 December 2009 and 31 December 2008 the carrying amounts of cash at bank, receivables, payables and accrued expenses approximated their fair values.

#### Capital management

The primary objective of the Authority's capital management is to ensure that it maintains adequate capital to support its operations. To maintain or adjust its capital structure, the Authority may adjust Government's Appropriations or its borrowings. There were no changes in the Authority's approach to capital management during the period.

### 20. Comparative information

Where applicable, comparative information was adjusted to conform with the current period's presentation.

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