

Market Review for the Postal Sector: Letter Mail Markets

Identification and Analysis of Markets, Determination of Market Power and Setting of Remedies

Consultation Document

Document Number:	MCA/C/13-1624
Date:	9 th July 2013

Contents

Executive Summary	3
Chapter 1 Introduction	6
1.1 Purpose of this Review	7
1.2 Market Review Procedure.....	7
1.3 Structure of the Document.....	8
Chapter 2 Outline to the market definition exercise	9
2.1 Introduction	9
2.2 Postal Services Markets	10
2.3 Standard Mail Services and Express Mail Services	10
2.4 Letter Post and Parcel Post.....	13
2.5 Single Piece Letter Mail and Bulk Letter Mail.....	15
2.6 Single Piece Letter Mail and Registered Letter Mail	17
2.7 Regular Bulk Letter Mail and Registered Bulk Letter Mail	19
2.8 Domestic and Cross-border Mail	20
2.9 Geographic Market.....	22
2.10 Cross-border Mail – Inbound Mail versus Outbound Mail	22
2.11 Overall Conclusion on Relevant Postal Markets	24
Chapter 3 Market Analysis	25
3.1 Background to Market Analysis.....	25
3.2 Assessment of Significant Market Power	26
3.3 Analysis of Single Piece Letter Mail Markets.....	29
3.4 Analysis of Registered Letter Mail Markets	37
3.5 Analysis of Bulk Letter Mail Markets	45
3.6 Analysis of Parcel Post Markets.....	51
Chapter 4 Regulatory Obligations	52
4.1 Background to Regulation	52
4.2 Existing Obligations.....	52
4.3 Proposed Decision on Regulatory Intervention	54
4.4 Statutory Power not Affected.....	55
4.5 Monitoring Market Developments.....	55
Submission of Responses	56

Executive Summary

The Malta Communications Authority (MCA) is hereby presenting, for national consultation, its proposed decision on the market definition of the postal sector in Malta and the consequent proposed conclusions of the market review of the letter mail markets.

The consultation period shall run from the 9th July 2013 to the 13th September 2013.

Summary of Conclusions

Identification of Markets

The Postal Regulatory Framework and the Postal Services (General) Regulations requires the MCA to define the boundaries of the relevant postal services markets appropriate to national circumstances.

A relevant market has both a product and geographic dimension. The product dimension includes all products that are regarded as being sufficiently interchangeable or substitutable. The geographic dimension consists of the area where the operators are involved in the supply and demand of the product and where the competitive conditions are reasonably similar, and are different from neighbouring areas.

Central to the market definition procedure are the demand-side and supply-side substitutability analysis. The existence of any demand and supply side substitution is determined through the hypothetical monopolist test. The hypothetical monopolist test is used as a framework for market definition purposes in both the product and geographical dimensions. The test, used in competition analysis, seeks to define a market by establishing the closest substitute to the product being considered. The hypothetical monopolist test identifies products as being substitutes by evaluating what will happen if there was a small but significant, lasting increase in the price of a given product, assuming that the prices of all other products remain constant.

The relevant product market shall comprise all those products and services that are substitutable, not only in terms of the price and the intended use of the product under investigation, but also in terms of the overall conditions of supply and demand.

In accordance with the above mentioned approach the MCA has identified the following postal services markets:

Market 1: Domestic Single Piece Letter Mail Market

Market 2: Outbound Single Piece Letter Mail Market

Market 3: Domestic Registered Letter Mail Market

Market 4: Outbound Registered Letter Mail Market

Market 5: Domestic Bulk Letter Mail Market

Market 6: Outbound Bulk Letter Mail Market

Market 7: Domestic Parcel Post Market

Market 8: Outbound Parcel Post Market

Further details to the market definition exercise and the approach taken by the MCA when identifying these markets, are contained in Chapter 2 of this document.

Assessment of Market Power

Having identified the boundaries of markets comprising the postal sector in Malta, the MCA shall now analyse these markets to assess whether any operator has significant market power (SMP) as defined in and required by Regulation 64 of the Postal Services Regulations.

In so doing the MCA has decided to split the analysis of these eight markets in two main clusters, namely the letter mail markets (Markets 1 – 6) and the parcel post markets (Markets 7 and 8). The rest of this review will deal with the analysis of the letter mail markets, whilst the parcel markets shall be subject to a separate analysis and consultation process as explained in Section 3.6 below.

In determining whether a postal operator has the ability to exercise SMP in a postal service market, the MCA will carry out a forward-looking market analysis based on existing market conditions and evidence.

The MCA shall establish the presence of a dominant position in postal services markets by reference to the following criteria:

- Market Share
- Barriers to entry
 - Vertical and horizontal integration
 - Economies of scale and scope
 - A highly developed collection and distribution network
- Potential Competition
- Countervailing buyer power

The findings that emerge from this analysis suggest that MaltaPost enjoys SMP in all the letter mail markets identified. This evidence is supported by the fact that MaltaPost has high market shares in all the letter mail markets defined and that no alternative operator seems to be in a position to erode this market power within the timeframe of the review. Moreover, with the presence of barriers to market entry the MCA does not expect that within the timeframe of this review conditions in the letter mail markets will change in a

manner that effective competition is guaranteed in the absence of regulation. Absence of potential competition also excludes countervailing buyer power which in turn reinforces the incumbent's market position.

In view of all this, the MCA therefore concludes that MaltaPost has significant market power in all the letter mail markets identified in this review.

Full details of the MCA's decision and reasoning are contained in Chapter 3 of this document.

Regulatory Obligations

Given the position of dominance held by MaltaPost in all of the letter mail markets identified the MCA is imposing the following remedies:

1. Obligation to provide services at cost-oriented prices
2. Obligation of non-discrimination
3. Obligation of provision of services on an unbundled basis
4. Approval and publication of tariffs
5. Accounting separation

Full details of these remedies are contained in Chapter 4 of this document.

Chapter 1 Introduction

Full market opening of the postal sector in Malta took place on the 1st of January 2013. To this effect, the area reserved for MaltaPost, as the incumbent designated universal service provider (USP), was completely abolished.¹

Full market opening of the postal sector is expected to create the potential for the development of a more competitive market environment within the scope of the universal service area. Users of postal services will stand to benefit from a competitive market environment through more competitive pricing, better service quality and greater choice of services. Competition should also promote further innovation in the postal sector and increase MaltaPost's incentive to continue to improve service quality and efficiencies.

In order to develop and maintain fair and effective competition in the postal sector within the context of full market opening the Malta Communications Authority (MCA) published an ex-ante postal regulatory framework.² Such a framework set forth the rules to facilitate entry of new postal operators and to prevent abuse by postal operators not yet subject to constraints posed by competitive market forces.

Moreover, in order to effectively regulate the postal sector within the context of full liberalisation the MCA proposed a number of amendments to the Postal Services (General) Regulations [SL254.01 of the Laws of Malta]. These proposals were duly taken on board by the Government and the relevant regulations were brought into force on the 26th November 2012.³

MaltaPost, having been the incumbent designated USP for many years enjoys a long standing position as the main operator providing postal services in Malta. In order to ensure a smooth transition to a fully liberalised and competitive market environment, on the 26th December 2012 the MCA designated MaltaPost as having 'a priori' significant market power (SMP)⁴ in the following postal services markets falling within the scope of the universal service in Malta:

- Letter-post services market
- Bulk letter-post services market
- Registered letter-post services market

¹ The complete removal of the 'reserved area' for MaltaPost, as the incumbent designated USP, allows new entrants to offer end-to-end services for all postal services, including letter mail, bulk mail, direct mail, newspapers, periodicals and other mail items. As a rule, such postal services will be in direct competition with those services provided by MaltaPost.

² Refer to Response to Consultation and Next Steps (MCA/O/12-1397):
<http://www.mca.org.mt/service-providers/decisions/regulating-postal-sector-fully-liberalised-market-response-consultation>

³ Refer to amendments to the Postal Services (General) Regulations – Legal Notice 408 of 2012:
<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=24140&l=1>

⁴ Refer to MCA Decision Notice on designation of MaltaPost as having SMP:
<http://www.mca.org.mt/decisions/designation-maltapost-having-significant-market-power>

- Parcel-post services market

As a result, MaltaPost is currently subject to specific regulatory obligations applicable to postal operators having SMP at the outset. Such a classification will continue to apply on MaltaPost until such time that the MCA determines, through the market analysis procedure, that a particular postal market has become competitive.

1.1 Purpose of this Review

The purpose of this review is to define the boundaries of markets comprising the postal sector in Malta and assess the level of competition in each of these postal service markets. Subsequently, where the review determines that a postal services market is not effectively competitive, it shall designate postal operators as having significant market power and it shall impose on such postal operators appropriate regulatory obligations, or maintain and amend such obligations where they already existed.

Where the review determines that a postal services market is effectively competitive it shall remove a designation of significant market power and withdraw the related regulatory obligations.

1.2 Market Review Procedure

The ex-ante regulatory framework outlines the procedure for carrying out market reviews.⁵ The market review procedure is also regulated by the Postal Services (General) Regulations [SL254.01 of the Laws of Malta].

As required by Regulation 64A (1) of the Postal Services (General) Regulations, *“the authority shall define the relevant postal services markets within the scope of the universal service appropriate to national circumstances”*. Furthermore *“the authority may at any time as it may deem necessary, after having defined a postal services market in accordance with regulation 64A, carry out an analysis of such market taking into account any guidelines howsoever described by the Authority”*.⁶

The adoption of a market review procedure for the postal sector enables the MCA to define the different postal service markets within the universal service area and assess competition within these markets.

Regulation 64 of the Postal Services Regulations goes on to say that in the absence of effective competition, the MCA shall classify one or more licensed operators as having significant market power (SMP). *“A postal operator shall be deemed to have SMP if either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately users”*.

⁵ Refer to Response to Consultation and Next Steps (MCA/O/12-1397): <http://www.mca.org.mt/service-providers/decisions/regulating-postal-sector-fully-liberalised-market-response-consultation>

⁶ Regulation 64C (1) of the Postal Services (General) Regulations

Postal operators classified as having SMP, in one or more postal markets will be required to comply with specific ex-ante regulatory obligations identified in regulations 64E to 64I of the Postal Services Regulations to prevent anti-competitive practices and to safeguard the interests of consumers. Ex-ante regulatory intervention will ensure that postal operators having significant market power provide postal services on terms and conditions, and at cost-oriented tariffs that are non-discriminatory and transparent. Where the MCA concludes that a market is effectively competitive, the MCA will not impose any of the specific regulatory obligations applicable to a postal operator having SMP, or remove previously imposed obligations.

The market review procedure for the postal sector follows three distinct stages:

1. Market Definition procedure – definition of the relevant market or markets
2. Market Analysis procedure – assessment of competition in each market, in particular whether any postal operators have SMP in a given market
3. Application of regulatory obligations / remedies – assessment of the appropriate regulatory obligations that should be imposed given the findings of SMP

In order to carry out its respective market definition and market analysis procedures, based on established economic and legal principles, the MCA will use market data collected from a variety of internal and external sources, including postal operators. The MCA shall also take utmost account of the market review procedure outlined in the postal regulatory framework.⁷

1.3 Structure of the Document

The rest of the document is structured as follows:

Chapter 2 presents the MCA's proposed conclusions on the definition of the postal services markets in Malta;

Chapter 3 outlines the MCA's market analysis for the letter mail markets identified and determines whether these markets are effectively competitive or not; and

Chapter 4 sets the general principles associated with the imposition of remedies.

⁷ Refer to Response to Consultation and Next Steps (MCA/O/12-1397): <http://www.mca.org.mt/service-providers/decisions/regulating-postal-sector-fully-liberalised-market-response-consultation>

Chapter 2 Outline to the market definition exercise

2.1 Introduction

The Postal Regulatory Framework and the Postal Services (General) Regulations requires the MCA to define relevant postal services markets appropriate to national circumstances. The purpose of the market definition procedure is to identify, in a methodical way, the competitive constraints faced by undertakings, thereby also facilitating the subsequent market analysis procedure.

A relevant market has both a product and geographic dimension. The product dimension includes all products that are regarded as being sufficiently interchangeable or substitutable. The geographic dimension consists of the area where the operators are involved in the supply and demand of the product and where the competitive conditions are reasonably similar, and are different from neighbouring areas.

Central to the market definition procedure are the demand-side and supply-side substitutability analysis. Demand-side substitutability is used to measure the extent to which consumers are prepared to substitute other services or products for the service or product under investigation. Supply-side substitutability, on the other hand, indicates whether suppliers other than those offering the product or service in question would switch in the immediate to short term their line of production to offer the relevant products or services without incurring considerable additional costs.

The existence of any demand and supply side substitution is determined through the hypothetical monopolist test. The hypothetical monopolist test is used as a framework for market definition purposes in both the product and geographical dimensions. The test, used in competition analysis, seeks to define a market by establishing the closest substitute to the product being considered. The hypothetical monopolist test identifies products as being substitutes by evaluating what will happen if there was a small but significant, lasting increase in the price of a given product, assuming that the prices of all other products remain constant.

The relevant product market shall comprise all those products and services that are substitutable, not only in terms of the price and the intended use of the product under investigation, but also in terms of the overall conditions of supply and demand.

This market review will define the boundaries of the relevant markets for the postal sector in Malta. In doing so, the MCA has identified the following relevant questions:

- What constitutes a **postal service**?
- Are **standard mail services** and **express mail services** part of the same postal services market?
- Are **letter-post services** and **parcel-post services** part of the same postal services market?

- Are **single piece letter mail**, **bulk letter mail** and **registered letter mail services** part of the same postal services market?
- Are **domestic** (inland) and **cross border** (inbound / outbound) mail part of the same postal services market?
- On the domestic front should the MCA define a postal services market that is **national geographic in scope**?
- On the international front should the MCA define a separate **inbound cross-border** and **outbound cross-border** mail market?

The following sections will discuss each of these questions in turn.

2.2 Postal Services Markets

According to the Postal Services Act, Chapter 254 of the Laws of Malta⁸, a postal service constitutes the service involving the clearance, sorting, transport and distribution of postal articles. Postal services include the transmission of postal articles of both domestic (inland) and cross border mail (incoming and outgoing mail). Transport alone is not considered to be a postal service.

A postal article refers to an article addressed in the final form in which it is to be carried by the postal operator. In addition to items of correspondence, such articles also include books, catalogues, newspapers, periodicals and postal parcels, however so described, including packages containing merchandise with or without commercial value.

Conclusion

The delivery of unaddressed mail lacks certain constituent features by which to be deemed 'postal services'. To this effect unaddressed mail services are not considered to be a postal service and therefore fall outside the scope of the postal market review procedure.

2.3 Standard Mail Services and Express Mail Services

The market definition exercise will now determine, on the basis of substitutability principles, whether express mail services belong to the same relevant market as standard postal services.

Express mail or courier services are accelerated postal services (i.e. the expedited collection, transport and delivery of postal articles) characterised throughout the supply of the service by a degree of speed, tracking and managerial control that exceed that applied to the fastest standard category⁹ of the basic letter post and parcel service.¹⁰

⁸Link to Postal Services Act:

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8748&l=1>

⁹ The fastest standard category of basic letter post and parcel service relates to the USP's services subject to a next day delivery target (D+1).

The MCA uses the following definition when determining whether a service shall be classified as an express mail service¹¹:

- Express mail services consist of the faster and more reliable acceptance/collection, handling, transportation and distribution of postal articles when compared to that of the fastest standard category of the basic postal service.
- In addition to the greater reliability and speed throughout the supply of the service, an express mail service must also include a number of supplementary characteristics such as guaranteed pre-set delivery time as agreed between the express mail service provider and the sender of the postal article; priority handling, tracking and managerial control throughout the supply of the service (i.e. from acceptance to delivery); and additional value-added features over the standard mail services involving, amongst others, the possibility of a premium price for a better quality of service.

Demand-side substitution

The following demand-side substitutability analysis determines whether and to what extent standard mail services and express mail services are substitutable with each other, namely on the basis of functionality and the pricing element.

As highlighted above, express mail services are operationally distinct from standard mail services. The provision of express services is based on a niche geared on the urgent exchange of physical communications making additional speed one of the defining characteristics of such services.

In general, express mail services are also characterised by a high degree of reliability in terms of guaranteed delivery. In contrast standard postal services are subject to delivery targets that do not provide for certainty and guarantees as to the exact day or time of delivery. The MCA thus concludes that customers opting for express services do so, on the basis of these requirements and are in principle prepared to pay a higher price for these services.

The Postal Service Directive 97/67/EC clearly indicates that *"whereas, in view of the fact that the essential difference between express mail and universal postal services lies in the value added (whatever form it takes) provided by express services and perceived by customers, the most effective way of determining the extra value perceived is to consider the extra price that customers are prepared to pay"*.¹²

¹⁰ These standard mail services are subject to delivery targets but do not provide for certainty and guarantee as to the exact day or time.

¹¹ Link to MCA Decision on Specific Aspects of the Universal Postal Service (MCA/D/11-0227) – **[Decision 4]**: https://www.mca.org.mt/sites/default/files/articles/DN_Postal_USOMar11_0.pdf

¹² Refer to recital 18 of Directive 97/67/EC.

To this extent the MCA also tests the demand substitutability, between these two types of services, on the basis of the pricing element. Through website scanning and product surveying, the MCA notes that there also exist price differentials between standard postal services and express services. This observation is better illustrated by way of the following example.

Suppose someone in Malta wanted to send a parcel weighing 1 kilogram to an address in the United Kingdom. The sender can do so either by using the standard parcel service offered by MaltaPost or an express parcel service offered by one of the many express / courier providers operating from Malta.

If the sender opts to send his/her parcel using MaltaPost's standard parcel service the tariff rate charged for the service will be €23.04. If on the other hand, the sender requires a faster delivery service and opts to use the express parcel service, then the tariff rate for that service ranges between €30 and €40. This analysis holds true for other mail services involving different destinations, weight and girth specifications.

In view of this evidence, the MCA therefore concludes that in the event of a small but significant non-transitory increase in the price (SSNIP)¹³ of standard mail services by a hypothetical monopolist it would be unlikely for people to switch to express mail services. This is because the price of express mail services would still be higher than that charged by the standard mail service.

The MCA notes that it would also be very unlikely for customers using the express mail services to switch to the standard mail services following a 5 to 10 percent increase in the postal rates of express services. Customers using the express mail service do so on the basis of the value added qualities these services offer, such as speed and guaranteed time delivery. To this end customers are prepared to pay a higher price for these services. Consequently, an increase in the price of express mail services is not expected to deter customers from continuing to use such services, provided that the value added features are satisfied.

On the basis of the above assessment the MCA therefore concludes that standard postal services and express services are not substitutable from a demand perspective. Standard postal services and express mail services thus belong to separate postal markets.

Supply-side substitution

From a supply side viewpoint, if a hypothetical monopolist were to increase the price of express mail services, it is highly likely for standard mail service providers to start offering express mail services as well. Similarly, express service providers would be enticed to start offering standard mail services if the latter were to increase the price. The MCA is of the opinion that no additional significant investment would be required for an operator providing standard mail services to start offering express mail services, and vice versa.

¹³ This SSNIP test is assessed against a 5 to 10 percent variation in the price of a given product or service.

Having said this, the MCA notes that whilst express mail operators are only required to have a general authorisation to operate, a postal operator offering standard mail services requires a licence. However, this regulatory requirement should not preclude operators from offering both types of services, as is the case locally with MaltaPost and DHL in some markets.

Overall, the MCA concludes that there is potential supply side substitution between standard postal services and express mail services.

Conclusion

In view of the above the MCA concludes that, given that the conditions for demand substitution do not exist, there are no grounds on which to define a single market for standard mail services and express mail services. This stems from the fact that express services are functionally different from standard mail services to the extent that a higher price is paid for such additional value added services. Therefore, standard mail services and express mail services belong to separate markets.

The MCA however notes that express mail services have been operating in a liberalised and competitive environment for a good number of years, so much so that several mail operators are registered in this area.¹⁴ In view of this, the MCA deems that it is not necessary to analyse the express mail market for effective competition, and likewise, no ex-ante regulatory obligations shall apply to this market.

Conclusively, the market review procedure shall only be carried out to assess the state of competition in postal markets providing standard mail services. Having said this, the MCA shall nonetheless take utmost account in the market analysis procedure of any indirect constraints imposed by express services on the standard mail service markets.

2.4 Letter Post and Parcel Post

This section will determine whether letter post and parcel post services are part of the same postal market.

Letter post services refer to the transmission by post of letter post items weighing up to 2 kilograms per item and adhering to certain restrictions with regard to size. The letter post service may convey letter post items tendered singly or in large quantities. A letter post service may also include the registration of letter post items.

Parcel post services, on the other hand, refer to the transmission by post of packages, tendered over the counter either singly or in large quantities. Parcels are distinct from letter post items and transportation freight respectively in consideration to weight and size limits. The maximum weight per package for this service is 20 kilograms.

¹⁴ Link to Register of Authorised Undertakings published in accordance with Regulations 45, 46 and 47 of the Postal Services (General) Regulations:
<http://www.mca.org.mt/sites/default/files/pageattachments/2011.02.16%20Register%20-%20Postal.pdf#overlay-context=authorisations-licensing/register-authorised-undertakings>

Demand-side substitution

From a demand perspective the MCA believes that letter post services and parcel post services are not substitutable with each other. At the outset, the MCA notes that the functional attributes between the two services is inherently different. On the one hand, letter post services refer to a written communication that is individualised for the addressee, such as an invoice, statement of account, postcards or personal greetings. In addition, the letter post service conveys other addressed letter post items including books, newspapers, periodicals, magazines, catalogues, and small packets.

Parcel post services, on the other hand, are designed to provide for transmission by post of larger and heavier shipments whose size and weight exceed the established limitations for letter post items.

In this regard, the MCA also notes that there are distinct service specifications between letter post services and parcel post services. As described above parcels are distinct from letter post items in consideration to weight and size limits.

In addition, it can also be concluded that the transmission of services for letter post items and parcels is somewhat different. Letter post items are generally posted and delivered through the letter box. Parcels, on the other hand, are tendered by the sender over the counter and delivered to the addressee by dedicated transport. If the household delivery is not successful the parcel is then retrieved over the counter.

Finally the MCA also notes that there is a difference between letter post and parcel post services on the basis of price. For example the domestic rate charged by MaltaPost for a single 50 gram letter is €0.26.¹⁵ MaltaPost's domestic rate for a 50 gram parcel exceeding the size limit of a letter post item is €1.16. Consequently, customers using letter posts services would unlikely switch to parcel post services following a 5 to 10 percent increase in the rates of letter post items, given that parcel services would continue to be higher in price.

Conversely, if the tariff rate for parcel services were to increase by 5 to 10 percent, people would be unable to switch to letter post services, given that the two postal services have distinct service specifications with regards to weight and size.

In view of this, the MCA therefore concludes that letter post services and parcel post services are not substitutes from a demand side perspective, and as a result belong to separate postal markets.

Supply-side substitution

The MCA believes that there is the potential for one-way supply substitution between letter post services and parcel post services. On one hand, no significant additional investment would be required if it is deemed profitable by postal providers of letter post

¹⁵ With effect from the 1st of April 2013 as per MCA decision (MCA/D/12-1412) on Price Control Mechanism for MaltaPost and Revised Postal Tariffs. Link to Decision: <http://www.mca.org.mt/service-providers/decisions/price-control-mechanism-maltapost-plc-and-revised-postal-tariffs>

services to start offering parcel services. A nationwide infrastructure for collection, sorting and delivery would already be in place for postal providers of letter post services, which could then be extended to the provision of parcel services.

On the other hand, it is unlikely for a parcel provider to start offering letter post services following a small but significant increase in the price of letter post. The provision of letter post services involves a process of collection, sorting and delivery which is far more complex than that entailed in the offerings of parcel post services. Consequently, parcel service operators would have to invest in a nationwide infrastructure for the provision of letter post services which will be costly to set-up.

Conclusion

All in all the MCA finds no justifiable grounds on which to define a single market for letter post services and parcel post services. Letter post and parcel post therefore pertain to separate markets.

In carrying out this assessment the MCA was primarily guided by the current offerings in the postal sector. In this view, the MCA did not find any products or services that would not otherwise fall under the standard definition of a letter or parcel as per definition above.

In particular the MCA assessed whether it would necessitate defining letters, large envelopes and small packets as separate markets. The MCA however notes that current product offerings under the letter mail market do not distinguish between a letter, a large envelope or a small packet. To this effect, the applicable pricing structure and the terms and conditions for these services are the same. Consequently, this suggests that at the present time the letter mail market should incorporate all types of letter mail items.

2.5 Single Piece Letter Mail and Bulk Letter Mail

The letter post service may convey letter post items tendered singly or in bulk quantities. A letter post service may also include the registration and/or insurance of letter post items.

Postal services are essential to small, medium and large businesses and, therefore, to economic development. For the most part, businesses rely on the provision of reliable and secure postal services to ensure the distribution of postal articles to their customers, suppliers and enquirers on a day to day basis.

In this respect, bulk letter mail is essential for the effective functioning of business and commerce in Malta. Large business mailers need to be able to send mail such as statements, advertising mail and bills to all their customers, regardless of where in the country they live. Access to an efficient bulk letter mail service is also imperative for smaller businesses, facilitating contact with their customer base. In this context the bulk letter mail service forms an integral part of the postal services required by business users.

The bulk letter mail refers to the postal service which includes a substantial number of similar letter post items (such as statements of account), periodicals (items published periodically such as newspapers and magazines), and direct mail (advertisements, catalogues, announcements, etc), which are deposited by a single sender, at the same place and time with a postal operator, to be transported and distributed to the addresses indicated on each of the postal articles.

Such services are normally specialised for different types of postal articles and require the sender to subscribe to particular commitments relating to volume, price, preparation or quality of service.

Having introduced the subject of bulk letter mail services, this section will now proceed to determine, on the basis of substitutability analysis, whether single piece letter mail services and bulk letter mail services belong to the same postal market.

Demand-side substitution

From a demand consideration, it is evident for the MCA that the functional characteristics between single piece letter mail and bulk letter mail services are different. As highlighted above, bulk mail includes a substantial number of similar letters which are deposited by a single sender at the same place and time with a postal operator.¹⁶ In this regard, the transmission of service for single piece letter mail and bulk letter mail is also different, particularly at the collection stage. Bulk mail is collected by the postal operator over the counter whereas single piece letters are generally collected via the post boxes.

At the same time, sorting and distribution processes are essentially similar for both the single piece letter services and the bulk letter services. Letter post items, collected singly or in large quantities, are sorted out for delivery using the same processes. Likewise postal items collected singly or in bulk quantities are delivered via the addressee's letter box.

The MCA also notes that there is a slight price differential between single piece letter mail services and bulk letter mail services. The domestic rate charged by MaltaPost for a single 50 gram letter is €0.26 (effective from the 1st of April 2013). On the other hand, MaltaPost's domestic rate for bulk letter mail services weighing between 0 – 50 grams is €0.24 per letter.¹⁷

Given this price differential, the MCA argues that there could possibly be the potential for one way demand substitution following a SSNIP test. At the outset, if the price of single piece letter mail were to increase by 5 to 10 percent, one cannot switch to bulk letter

¹⁶ In the case of MaltaPost's bulk mail service the sender does not need to affix a postage stamp to the postal article. Some countries even allow the bulk mail user to print special stamps as approved by the postal operator.

¹⁷ Link to Decision – Price Control Mechanism for MaltaPost and Revised Postal Tariffs: <https://www.mca.org.mt/article/price-control-mechanism-maltapost-plc-and-revised-postal-tariffs-responses-consultation-and>

mail services as the latter deal exclusively with a substantial number of letters. Thus, single piece letter mail services and bulk mail services are not substitutable.

On the other hand, if bulk letter mail rates increase by 5 to 10 percent, thus becoming more expensive than the single piece letter mail service, one may technically switch to single piece mail services. This substitution should, however, prove to be an inefficient course for large bulk mailers, who would have to affix a stamp to each letter and then proceed to posting the letters individually at the post box instead of tendering them en masse over the counter. In this regard, the MCA concludes that while demand substitution between these two services is possible, from this perspective it would overall prove to be impractical in reality.

Supply-side substitution

In terms of supply the MCA notes that there is the potential for supply substitution between single piece letter mail and bulk letter mail following an increase in the tariff rate of one of these services. The MCA believes that no additional significant investment would be required by a postal operator, already providing one of these services, to start also offering the other service. Both services in fact can be provided over the current infrastructure; sorting and distribution processes are similar for the provision of both services.

This said, a bulk letter mail operator would however need to provide a number of access points (post boxes) if it wishes to start offering single piece letter mail services. On the contrary, bulk mail items are tendered over the counter and access points are therefore not necessary.

Conclusion

All in all the MCA concludes that single piece letter mail services and bulk letter mail services are characteristically and functionally different services designed to cater for different customer requirements. Consequently, the MCA believes that single piece letter mail services and bulk letter mail services belong to separate markets.

2.6 Single Piece Letter Mail and Registered Letter Mail

This section will determine whether single piece letter mail services and registered letter mail services belong to the same relevant postal market.

Demand-side substitution

From the demand side the MCA notes that the functional characteristics between single piece letter mail and registered letter mail services are different. Registered letter mail describes letters considered valuable and need a chain of custody that provides more control than regular mail. People use the registered service in order to make sure that the postal article has been delivered. In fact, registration provides a flat rate guarantee against risks of loss, theft or damage and supplies the sender, where appropriate upon request, with proof of the handing in of the postal article and, or of its delivery to the addressee.

Transmission of service for single piece letter mail and registered letter mail is also somewhat different. Single piece letters are generally collected via the post box and then delivered to the addressee through the letter box. Registered letters, on the other hand, involve a manual transmission process; meaning you would have to go to a post office to register a letter. In addition the delivery of registered mail requests a signature from the addressee as proof that the item has been delivered. For this matter, a registered postal article cannot be delivered through the letter box but must be handed to the addressee in person, or to anyone residing in the same address, against his/her signature.

In terms of postal tariff rates, single piece letter mail items and registered letter mail items are also different. As already highlighted above, the domestic rate charged by MaltaPost for a single 50 gram letter is €0.26. The domestic rate for a 50 gram registered letter is €1.16 which is made up of the normal postage rate and an additional charge known as a registration fee of €0.90.¹⁸

In this regard, a 5 to 10 percent increase in the tariff rate of single piece letter mail would not result in a demand substitution to registered letter mail services because, at €1.16, the registered letter mail service would remain to be the most expensive of the two services. Equally, if the price of registered letter mail services were to increase by 5 to 10 percent, people would not switch to single piece letter mail services. This is because people's demand for the registered mail service is not dictated by price but by the requirement to make sure the postal item has been delivered.

In view of this assessment the MCA therefore concludes that single piece letter mail services and registered letter mail services are not demand substitutable. Consequently the two services belong to separate markets.

Supply-side substitution

From a supply side perspective the MCA notes that there is the potential for supply substitution between single piece letter mail and registered letter mail following an increase in the tariff rate of one of these services. The MCA argues that no significant investment would be required by a postal operator, already providing one of these services, to start also offering the other service. Both services in fact can be provided over the current infrastructure with only minor enhancements to the collection process.¹⁹

Conclusion

All things considered the MCA concludes that, given that the conditions for demand substitution do not exist, there are no grounds on which to define a single market for single piece letter mail and registered letter mail. Therefore, single piece letter mail and registered letter mail services belong to separate markets.

¹⁸ Link to Decision – Price Control Mechanism for MaltaPost and Revised Postal Tariffs: <https://www.mca.org.mt/article/price-control-mechanism-maltapost-plc-and-revised-postal-tariffs-responses-consultation-and>

¹⁹ The registered mail service would be offered subject to the postal operator having outlet facilities where people can go to register their postal articles. The single letter mail service, on the other hand, would be offered provided the postal operator has a number of collection points/post boxes where people can post their postal articles to be delivered.

2.7 Regular Bulk Letter Mail and Registered Bulk Letter Mail

The market definition procedure has so far determined that single piece letter mail and bulk letter mail, as well as single piece letter mail and registered letter mail belong to separate postal markets. This section will now assess whether regular bulk letter mail services and registered bulk letter mail services are to be defined within the same relevant postal market.

Demand-side substitution

The MCA observes that regular bulk letter mail services and registered bulk letter mail services are functionally different in nature. In essence, both services involve a substantial amount of postal items which are deposited by a single sender at the same place and time with a postal operator. However, the registered bulk mail service provides the sender with the necessary controls to make sure that the postal items have been delivered. Registration provides a flat rate guarantee against risks of loss, theft or damage and supplies the sender, where appropriate upon request, with proof of the handing in of the postal article and, or of its delivery to the addressee. Accordingly, people will demand one postal service and not the other on the basis of these requirements.

In terms of postal tariff rates, registered bulk letter mail items and regular bulk letter mail are also different. As already highlighted above, MaltaPost's domestic rate for regular bulk letter mail services weighing between 0 – 50 grams is €0.24 per letter. On the other hand, the domestic rate charged by MaltaPost for registered bulk letter mail items weighing between 0 – 50 grams is €1.14 per letter. The latter is made up of the normal bulk postage rate and an additional charge known as a registration fee of €0.90.

Given functional and pricing differences the MCA concludes that there exists no demand substitution between registered bulk letter mail services and regular bulk letter mail services. If the price of registered bulk letter mail services were to increase by 5 to 10 percent one will not substitute to regular bulk letter mail. This is because unregistered bulk mail does not give the sender the guarantees required under registered mail services.

Conversely, if regular bulk letter mail rates were to increase by the hypothetical 5 to 10 percent variance one would not substitute to registered bulk letter mail, for it would not be cost effective - €0.24 per letter vs. €1.14 per registered letter.

Conclusively the MCA believes that registered bulk letter mail services and regular bulk letter mail services are not demand substitutable and the two services belong to separate markets.

Supply-side substitution

From a supply side perspective the MCA notes that there is the potential for supply substitution between registered bulk letter mail and regular bulk letter mail following an increase in the tariff rate of one of these services. The MCA argues that no significant investment would be required by a postal operator, already providing one of these

services, to start also offering the other service. Both services, in fact, can be provided over the current infrastructure.

Registered bulk letter mail services and regular bulk letter mail services can therefore be said to belong to the same relevant postal market from a supply point of view.

Conclusion

All things considered the MCA concludes that registered bulk letter mail services and regular bulk letter mail services are characteristically different services designed to cater for different customer requirements. Consequently, the MCA believes that registered bulk letter mail services and regular bulk letter mail services belong to separate postal markets.

2.8 Domestic and Cross-border Mail

The market definition procedure has so far determined that parcel post services, single piece letter mail, registered letter mail and bulk letter mail all belong to separate postal markets. Subsequently, for each of these four identified postal service markets a separate domestic and cross-border (inbound/outbound) market will be further analysed.

Demand-side substitution

Domestic mail services refer to the transmission by post of postal articles posted in Malta and addressed for delivery to any place in Malta. Cross-border mail services, on the other hand, refer to the transmission by post of postal articles to or from another country.

In view of this, the MCA concludes that the demand and supply conditions for domestic mail services and cross-border mail services are inherently different as they address distinct consumer requirements. At the functional level, people will therefore demand one postal service and not the other on the basis of these requirements.

In terms of postal tariff rates, domestic mail services and cross-border mail services are also different. For instance, the domestic rate charged by MaltaPost for a single 20 gram letter is €0.24. On the other hand, MaltaPost's outbound cross-border rate for a single 20 gram letter delivered to, say, Zone A is €0.37.²⁰

²⁰ Link to MaltaPost's Outbound Cross-border Tariff Rates by Destination:
<http://www.maltapost.com/post-it-international-mail>

Table 1: MaltaPost’s Outbound Cross-border Tariff Rates by Destination

Destination	Letters /Printed Papers/Postcards	
	First 20g	Each Add. 20g
<u>Zone A</u>	€0.37	€0.30
<u>Zone B</u>	€0.51	€0.40
<u>Zone C</u>	€0.63	€0.49
<u>Zone D</u>	€0.86	€0.68

With these functional and pricing differences the MCA thus concludes that there exists no possible demand substitution between domestic mail services and cross-border mail services. If the price of cross-border mail services were to increase by 5 to 10 percent one cannot switch to domestic mail as the latter deals exclusively with the transmission by post of postal articles posted in Malta and addressed to any place in Malta.

Conversely, if domestic mail service rates were to increase by the hypothetical 5 to 10 percent variance one would not substitute to cross-border mail, for even if it were functionally possible, it would not be cost effective.

Conclusively, the MCA believes that domestic mail services and cross-border mail services are not demand substitutable and the two services belong to separate markets.

Supply-side substitution

From a supply side perspective the MCA also believes that domestic mail services and cross-border mail services are not substitutable. A postal operator offering domestic mail services would have to extend its network internationally by negotiating bilateral/multilateral agreements with foreign postal operators if it wishes to provide cross-border mail services.

Without such agreements the local postal operator will not be able to offer cross-border services. For this reason the MCA concludes that domestic mail services and cross-border mail services are, from the supply perspective, functionally distinct.

Conclusion

All things considered the MCA therefore concludes that domestic mail services and cross-border mail services are inherently different services designed to cater for different customer requirements. Consequently, the MCA believes that domestic mail services and cross-border mail services belong to separate postal markets.

To this effect, a separate domestic and cross-border market will be defined for each of the four postal service markets previously identified.

2.9 Geographic Market

The MCA defines a relevant geographic market as one which comprises an area in which the postal operators concerned are involved in the supply and demand of the relevant postal services in which area the conditions of competition are similar and which can be distinguished from neighbouring areas in which the prevailing conditions of competition are appreciably different. In determining the geographical scope of a relevant market two criteria are generally used; namely the area covered by the postal network, and the existence of legal and other regulatory instruments.

On the basis of the above-mentioned criteria, the MCA maintains that the relevant geographic market for the provision of postal services on the domestic front is national in scope. This view is supported by the fact that all authorised or licensed postal operators providing one or more postal services in the identified markets above are operating under sufficiently similar conditions of competition, subject to common constraints in terms of pricing and marketing arrangements, and common conditions of supply across the national territory.

Given that these postal services are being provided by operators located within the same geographical area the MCA therefore concludes that there is sufficient demand-side and supply-side substitution in the provision of postal services. To this effect, the MCA will define a national geographic market for each of the four domestic postal markets identified; that is the domestic single piece letter mail, domestic registered letter mail, domestic bulk letter mail and domestic parcel post.

2.10 Cross-border Mail – Inbound Mail versus Outbound Mail

Cross-border mail services are categorised into two distinct markets: the inbound cross-border mail market and the outbound cross-border mail market. Inbound cross-border mail services refer to postal articles received through the post from a place outside Malta for delivery to any place in Malta. Outbound cross-border mail services, on the other hand, refer to postal articles posted in Malta for onward transmission through the post to a place outside Malta.

The MCA believes that the demand and supply conditions for inbound cross-border mail and outbound cross-border mail are inherently different. Consequently the MCA shall define a separate inbound cross-border market and an outbound cross-border market for each of the four postal markets identified above.

Inbound Cross-border Mail

With reference to the inbound market the MCA notes that the remuneration for the distribution of inbound cross-border mail is subject to international agreements (in the case of a Universal Postal Union [UPU] designated operator) or bilateral/multilateral agreements. Consequently, the prices, terms and conditions for the delivery of inbound cross-border mail services are not established by the local postal operator but dictated by international negotiations.

The MCA argues that while the receiving end of the inbound mail service lies in Malta the sender of the postal article is located abroad and it is therefore the latter who requests the end-to-end services of a postal operator. Naturally, the sender will request the end-to-end service of a postal operator which also operates in the country of origin. In this case, the local postal operator will only act as an intermediary to complete the final leg in the delivery portion of the end-to-end postal service into Malta. Thereby, the local postal operator will have limited influence over the price, terms and conditions offered by the foreign postal operator. Likewise, the local postal operator would not be able to leverage its market power over the foreign sender.

Moreover, the agreements for cross-border mail delivery reached between foreign and local postal operators are on a voluntarily basis. This means that foreign postal operators can choose to conclude cross-border agreements with any local postal operator(s) for the delivery of inbound cross-border mail. Although MaltaPost is the UPU designated operator, the MCA notes that other postal operators have concluded specific agreements with foreign postal operators and are currently offering the inbound cross-border mail service. DHL Malta currently offers inbound cross-border mail services from certain countries, mainly Germany.

In view of the above, the MCA deems that regulatory intervention is not required for the inbound cross-border mail markets since MaltaPost is not able to leverage any market power with international providers. This is because if MaltaPost had to leverage any market power over international providers the latter would move on to renegotiate cross-border mail agreements with other local postal operators. In effect, alternative operators have already started posing a constraint on MaltaPost.

Subsequently, the MCA does not at this stage intend to define a market for inbound cross-border markets which will be susceptible for ex ante regulation.

Having said this, the MCA still reserves the right to carry out any analysis if it has reason to believe that competition issues may arise in the distribution of inbound cross-border mail. This conclusion is also without prejudice to Article 22 of the Postal Services Act.

Outbound Cross-border Mail

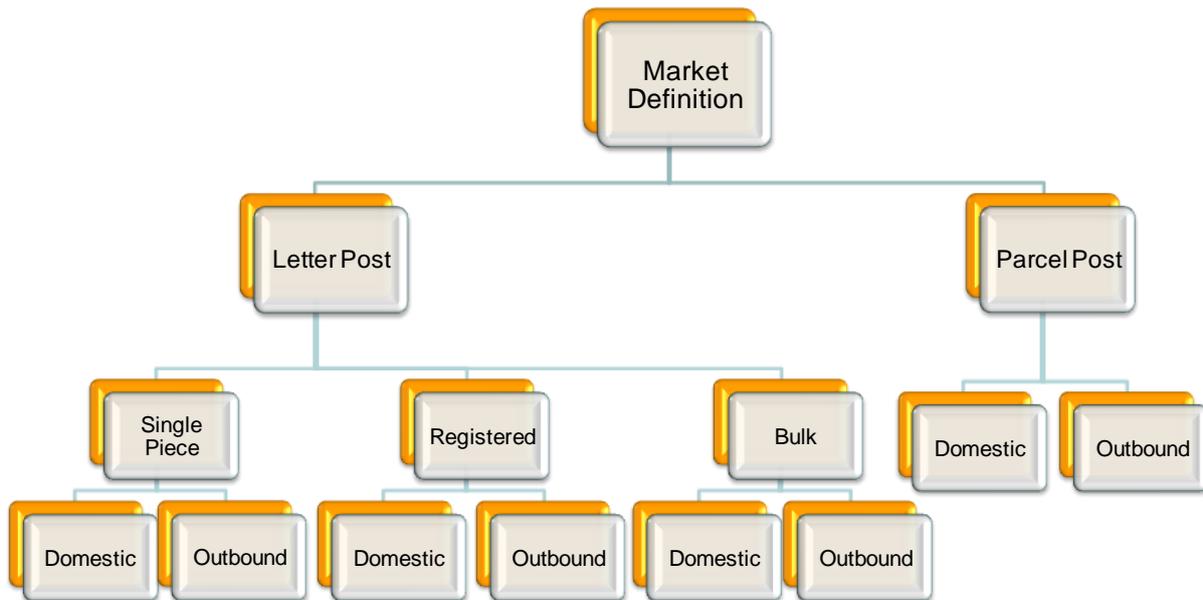
Outbound cross-border mail services are also subject to international agreements or bilateral/multilateral agreements. Outbound cross-border mail services, like inbound cross-border mail services, can only be offered provided that the local postal operator has negotiated agreements with foreign postal operators to deliver postal articles beyond Malta.

However the MCA notes that, contrary to the inbound cross-border mail service, the outbound postal service originates from a sender in Malta, thus the price, terms and conditions are established by the postal operator in Malta. In this case, the state of play for the local postal operator is different as it can leverage its market position over the local user of the postal outbound service. Likewise the local postal operator can negotiate favourable terms with international postal operators to further cream the market.

In view of this assessment, the outbound market will therefore be analysed to determine whether a postal operator in Malta has SMP in one of the four outbound cross-border markets; that is the outbound single piece letter mail market, outbound registered letter mail market, outbound bulk letter mail market and outbound parcel post market.

2.11 Overall Conclusion on Relevant Postal Markets

Following the examination and discussion presented above, the MCA proposes for SMP analysis the following relevant postal markets:



Market 1: Domestic Single Piece Letter Mail Market

Market 2: Outbound Single Piece Letter Mail Market

Market 3: Domestic Registered Letter Mail Market

Market 4: Outbound Registered Letter Mail Market

Market 5: Domestic Bulk Letter Mail Market

Market 6: Outbound Bulk Letter Mail Market

Market 7: Domestic Parcel Post Market

Market 8: Outbound Parcel Post Market

Q1. Do you agree with the above proposed conclusions regarding the market definition for the postal services markets?

Chapter 3 Market Analysis

Having identified, in the previous chapter, the individual markets that comprise the postal sector in Malta, the MCA will now move to analyse these markets to assess whether any operator has significant market power as defined in and required by Regulation 64 of the Postal Services Regulations.

In so doing the MCA has decided to split the analysis of these eight markets in two main clusters, namely the letter mail markets (Markets 1 – 6) and the parcel post markets (Markets 7 and 8). The rest of this review will deal with the analysis of the letter mail markets, whilst the parcel markets shall be subject to a separate analysis and consultation process as explained in Section 3.6 below.

3.1 Background to Market Analysis

According to Regulation 64 of the Postal Services Regulations [SL254.01 of the Laws of Malta] *“the authority may at any time as it may deem necessary, after having defined a postal services market in accordance with regulation 64A, carry out an analysis of such market taking into account any guidelines howsoever described by the Authority”*.²¹

It follows that in the absence of effective competition, the MCA shall classify one or more licensed operators as having SMP. *“A postal operator shall be deemed to have SMP if either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately users”*.

Regulation 64B (4) of the Postal Services Regulations additionally states that *“where a postal operator has significant market power on a specific relevant postal services market, it may also be designated as have significant market power on a closely related postal services market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the postal operator”*.

Therefore, in view of the above, one or more postal operators in the postal markets may be designated as having SMP where that operator(s), enjoys a position of dominance. Similarly, a postal operator may be designated as having SMP where it is in a position to leverage market power across closely related markets.

In order to ensure a smooth transition to a fully liberalised and competitive market environment, the MCA already classified MaltaPost as having a priori SMP in all the postal service markets identified above. To this effect, MaltaPost is currently subject to specific regulatory obligations applicable to postal operators having SMP.

This SMP designation is not permanent and will be removed if the MCA determines through this market analysis that MaltaPost no longer possesses SMP in one or more

²¹ Regulation 64C (1) of the Postal Services (General) Regulations

postal services markets. At the same time, the MCA may classify any other postal operator as having SMP in a relevant postal service market, if it determines that the postal operator has SMP.

In carrying out its market analysis, based on established economic and legal principles, the MCA will use market data collected from a variety of internal and external sources, including postal operators. The MCA shall also take utmost account of the market review procedure outlined in the postal regulatory framework.²²

3.2 Assessment of Significant Market Power

In determining whether a postal operator has the ability to exercise SMP in a postal service market, the MCA will carry out a forward-looking market analysis based on existing market conditions and evidence.

The MCA shall establish the presence of a dominant position in postal services markets by reference to the following criteria:

- Market Share
- Barriers to entry
 - Vertical and horizontal integration
 - Economies of scale and scope
 - A highly developed collection and distribution network
- Potential Competition
- Countervailing buyer power

In carrying out this analysis the MCA will also take into account the dynamic aspects of the postal sector. The MCA will investigate a number of structural and behavioural aspects of the postal markets and consider evidence of actual market performance to assess whether or not, over the time period considered, the postal markets have characteristics which may be such as to justify the imposition of regulatory obligations. In doing so, the MCA will look at market factors, such as price movements, trends in postal volumes, and external-indirect constraints.

Market Shares

In competition law assessment, market shares are commonly used as a proxy for market power. Since there is a positive association between market share and market power, a first step in the analysis of market power of a firm is by measuring its market share.

²² Refer to Response to Consultation and Next Steps (MCA/O/12-1397): <http://www.mca.org.mt/service-providers/decisions/regulating-postal-sector-fully-liberalised-market-response-consultation>

Although high market shares are not in themselves sufficient to conclude whether a postal operator enjoys SMP in a market, market shares exceeding a certain threshold may give rise to the presumption that the firm has market dominance. This notion stems from established European case-law underlying that market shares in excess of 50 percent are in themselves, save in exceptional circumstances, evidence of the existence of a dominant position. The market share analysis, based on available statistical evidence and trends over the 2009 – 2012 period, shall establish whether any operator providing services in one of the postal markets identified for Malta is in a position to exert market power.

Barriers to entry

Barriers to entry typically serve as obstacles for potential operators to enter the market and compete with the incumbent. This document will, therefore, investigate whether the postal markets identified in the previous chapter are characterised by such barriers to entry. In so doing, the MCA remarks that barriers to entry can be of various types, however, vertical and horizontal integration, economies of scale and scope, and a highly developed collection and distribution network will be the major elements that are addressed in this assessment.

Vertical and Horizontal Integration

Vertical integration, essentially involves an undertaking operating in a given market, while also being operative in a market that is at a higher or lower level in the chain of provision. Put it differently, an operator may decide to enter a market by investing in both upstream access to infrastructure markets and downstream service provision markets, as this may give the operator a competitive edge over existent and potential competitors by way of market power leverage from upstream to downstream markets. To this effect, vertical integration may deter potential entry in such markets.

Horizontal integration, on the other hand, refers to an undertaking operating in a given market while also being operative in other business activities that are at the same level of the value chain in similar or different sectors of the economy. In essence, horizontal integration offers several advantages to the integrated operator, including favourable economies of scale, economies of scope and increased market power. In the same way horizontal integration may act as a barrier to entry for potential operators and preclude effective competition in such markets.

Economies of Scale and Scope

Economies of scale refer to the cost reductions that a business may enjoy as it expands its production and penetrates the market in which it operates. Economies of scale are generally achieved because as production increases, the cost of producing each additional unit falls, provided that fixed costs, among other elements, are shared over an increased number of units. On the same lines, the additional costs incurred by a postal operator will fall with greater volumes of postal items.

Economies of scope, on the other hand, refer to the unit cost reduction of a particular service as it results from being produced jointly with another service by the same operator. In this regard, costs may be saved where common processes or technological infrastructures are used in the provision of a group of services. Likewise, when an operator is present in a large number of markets it can share common cost over a greater range of services.

A highly developed postal network

A well developed postal network is important for the efficient collection and delivery of postal services. Well developed postal distribution systems may however prove to be somewhat costly to replicate and maintain. This is because mail collection, sorting, transport and delivery access may exhibit economies of scale. For this reason, well developed postal networks are likely to be controlled by the incumbent operator.

The incumbent operator, having been in the postal sector for a number of years, would have established itself among postal service users, as the leading nationwide service provider. Likewise the incumbent operator would have, over time, acquired the necessary knowledge and expertise to improve on existing processes and develop a network that would be difficult to replicate in the short to medium term. At the same time, a potential market entrant may find it hard to incur an investment that would then require high economies of scale for returns to justify the initial investment costs.

In view of all this, the incumbent's control over a highly developed postal network may thus represent a significant barrier to entry for potential competitors as well as an advantage over existing competitors.

Potential Competition

Potential competition refers to the prospect of new operators joining the market within a short period of time or existing operators capable of competing with the incumbent operator. In essence, the sheer threat of competition may prevent the incumbent operator from raising prices above competitive levels, leading thereby to a situation in which no market power is exercised.

Naturally, where barriers to entry are strong, the threat of potential competition is likely to be weak or absent. This is because barriers to entry serve as obstacles to new competition, thus affording the incumbent operators the power to behave to an appreciable extent independently of competitors and customers.

Market maturity, particularly evidence of stagnant or moderate demand-side growth, is also an important aspect in the assessment of potential competition. This is because in a mature market, there may be less of an incentive to compete aggressively and attract new customers. Similarly there would be less scope for successful market entry as a new operator would find it difficult to acquire market share where growth in demand is low.

Countervailing Buyer Power

Customers with a strong negotiating position may significantly shape the level of competition in a market as this will tend to restrict the operator's ability to exercise market power and at independently of their customers. In effect, when customers can exert significant pressure on a supplier of a good or service, they can effectively stop an attempt to increase prices by service providers. The extent of countervailing buyer power will however depend on whether customers could, at the outset, choose to discontinue the service being provided by a particular operator and switch to alternative providers, within a short period of time.

3.3 Analysis of Single Piece Letter Mail Markets

With reference to the above-mentioned criteria the following sections will now analyse each of the previously defined letter mail markets to assess whether any postal operators are in a position to exercise SMP in these markets.

The MCA will start its analysis by looking at the single piece letter mail markets comprising **Market 1** (domestic single piece letter mail) and **Market 2** (outbound single piece letter mail) of the postal sector.

3.3.1 Market Share

MaltaPost is currently – and has been for the past years – the sole postal operator providing domestic single piece letter mail services and outbound single piece letter mail services. It thus follows that MaltaPost enjoys 100 percent market share in both the domestic single piece letter mail market (Market 1) and the outbound single piece letter mail market (Market 2).

Prior to the full market opening of the postal sector, which took place on the 1st of January 2013, single piece letter mail services were an area reserved for MaltaPost as the incumbent designated universal service provider.²³ To this effect competition could not happen in these markets as no postal operator, other than MaltaPost, was licensed to offer such services.

With full liberalisation, the 'reserved area' for MaltaPost has now been completely removed and the potential for a competitive market environment in the provision of single piece letter mail services is now possible. Having said this however, the MCA believes that during the three year timeframe of this review it is highly unlikely that competition will emerge in Market 1 and Market 2, and MaltaPost will continue to enjoy a dominant position in these markets.

²³ Directive 97/67/EC (Art.7) allowed Member States to reserve services to universal service providers ensuring the maintenance of universal services to the extent necessary. As a rule the reserved services had to be limited to items of domestic correspondence weighing less than 50 grams; and with a price less than two and a half times the public tariff for an item of correspondence in the first weight step of the fastest category. Cross-border mail could also be reserved within the same weight and price limits to ensure the provision of universal service.

Also refer to Chapter 254 of the Laws of Malta – Postal Services Act: Second Schedule (Article 20) <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8748&l=1>

3.3.2 Barriers to Entry

The MCA notes that new postal operators will face barriers in trying to enter the single piece letter mail markets and to compete effectively with the incumbent.

The provision of single piece letter mail services involves a process of collection, sorting and delivery which is quite complex to organise and costly to set up on a nationwide basis. The costs involved are largely fixed in nature and relate to building a network that would provide for a number of nationwide access points (post boxes), post offices, sorting hubs, transportation facilities and a considerable number of post employees for the delivery of postal items to the intended addressee. If the new entrant wishes to also provide outbound single piece letter mail services, then the operator would also have to extend its network internationally by negotiating bilateral/multilateral agreements with foreign postal operators.

With reference to the local context, MaltaPost, having been in the postal sector for a number of years, established itself among postal service users, as the nationwide service provider. In this regard, MaltaPost has an advantage over potential new entrants; given it was the first mover in the postal sector and has also so far been holding a *de facto* monopoly position in practically all the letter mail markets. Consequently it enjoys a large market presence and a strong customer base.

Having been in the postal sector for all these years, MaltaPost also managed to develop a nationwide postal network that is vital for the efficient collection and delivery of postal services. MaltaPost is a fully fledged postal operator with the capacity to deliver any postal service involving the clearance, sorting, transport and distribution of postal articles to any nationwide and cross border address.

The MCA argues that while it is not impossible for new postal operators to enter the single piece letter mail markets and compete with the incumbent it would nonetheless take time and investment to replicate MaltaPost's fully fledged and high density postal network. In this respect, the MCA believes that MaltaPost's long standing position as the main postal service provider is likely to give it a competitive advantage over potential new entrants.

Furthermore, given that MaltaPost is both vertically and horizontally integrated, in that it is a fully fledged postal operator present across the whole spectrum of postal markets, the MCA believes that the incumbent also enjoys high economies of scale and scope in Markets 1 and 2 in comparison to any new entrant. In essence, MaltaPost's long standing position as the only postal operator providing single piece letter mail services results in it enjoying a large base of postal service users and likewise benefits from economies of scale. The fact that the costs involved in the provision of single piece letter mail services are mostly fixed, results in a lower average cost for the incumbent as the total cost of the postal service is spread across a large base of users.

A new entrant would, on the other hand, need to capture a large share of the market if it is to effectively achieve similar economies of scale and compete with the more established incumbent. This, in reality, may prove to be more difficult for new entrants in

the context described below where growth in demand for single piece letter mail services is low.

MaltaPost's presence in other postal service markets also enables it to benefit from economies of scope, where the average costs of providing the single piece letter mail services are lower given that these are shared over a greater range of services. This ability of MaltaPost to benefit from economies of scope can also act as a barrier to entry for new competitors. New entrants can achieve such economies of scope only if they enter a large number of markets and with sufficient scale. In reality, this again may prove to be difficult during the timeframe of this review given it requires time and investment to develop a fully fledged postal network and it would also require scale to justify such an investment.

In view of the above assessment, the MCA therefore suggests that current market characteristics may impede new operators from entering the market or compete at par with the incumbent MaltaPost. Consequently, the MCA concludes that MaltaPost's market power in the domestic and outbound single piece letter mail markets is unlikely to be eroded during the time period of this review.

3.3.3 Countervailing Buyer Power

In view of the fact that MaltaPost is the sole postal operator offering nationwide single piece letter mail services, postal service users cannot exert countervailing buyer power to sufficiently constrain any market power enjoyed by the incumbent operator. This is because postal service users only have MaltaPost to choose from and cannot therefore switch to alternative postal operators for the single piece letter mail services.

This said, the MCA, however believes that countervailing buyer power must also be assessed within the broader picture of the availability of electronic mail services. In this context, the MCA notes that customers may in actual fact exert some kind of countervailing buyer power by switching to electronic forms of mail and communication.

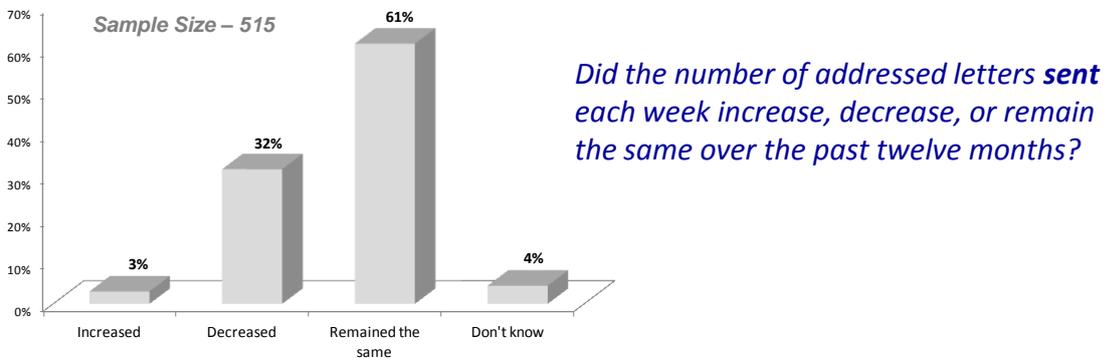
In essence, the degree of substitution between physical and electronic ways of communication is a reality in today's world and a challenge faced by the postal sector. The emergence of information and communication technologies (ICT) resulting in the so-called 'e-Substitution' is a major concern for all postal operators around the world as mail volumes continue to fall and the economies of scale that have made possible daily deliveries to every address are being eroded.

Electronic substitution of mail is not however a uniform phenomenon, and mainly depends on the technologies available in each country and how quickly they catch on. For instance electronic substitution catches on more quickly in large companies than in small and medium enterprises, as the often costly technology can be beyond their means. Similarly, the increase in electronic substitution among households has been related to the growing number of homes with high speed Internet. In either case, studies on this matter explain that electronic substitution generally involves three phases: it starts slowly, then accelerates and finally stabilizes.

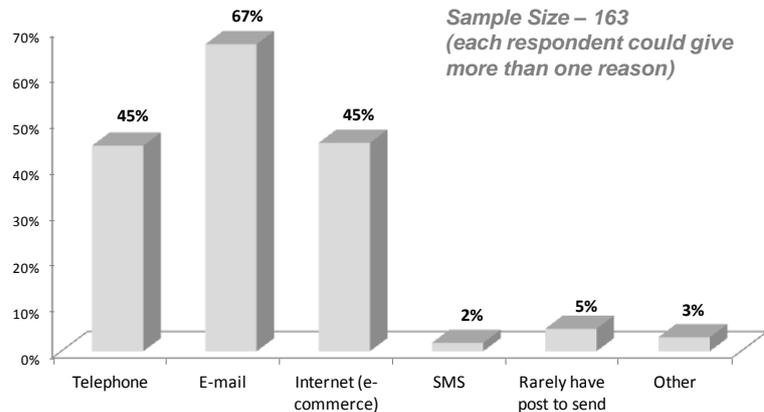
A survey conducted by the MCA among households²⁴ and micro enterprises²⁵ in November 2011 indicate that only 32 percent of households and 23 percent of small businesses claim to have reduced the number of addressed letters they sent in the previous twelve months by resorting to other non-postal alternatives, namely emails and eCommerce.

At the same time, the MCA also notes that the remaining majority of customers (both households and small businesses) claim that the number of addressed letters sent over the previous twelve months has remained the same.

Chart 1 – Household Survey Results



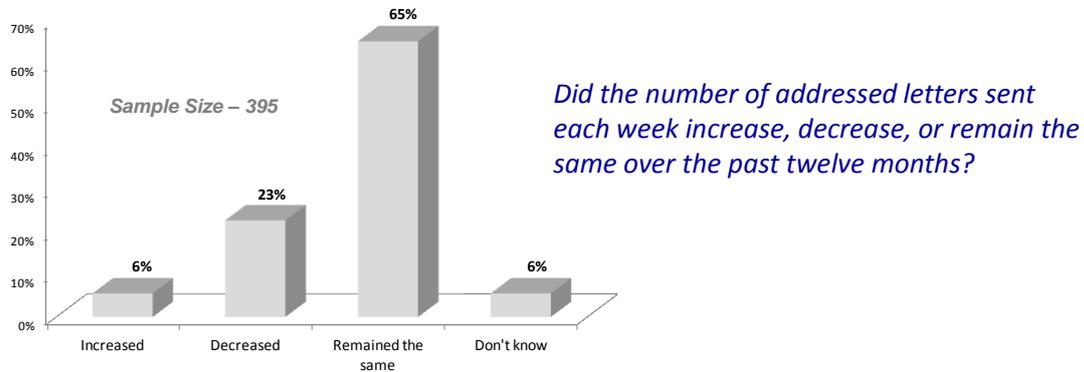
If there was a decrease in the number of addressed letters sent, what are the main reasons?



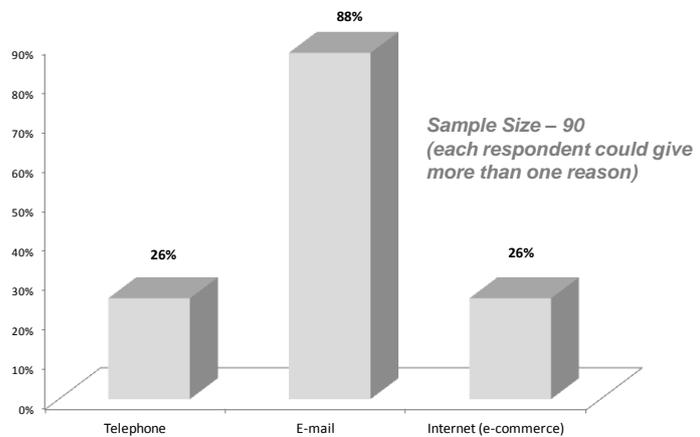
²⁴ Household Survey Results: <https://www.mca.org.mt/consumer/surveys/consumer-perception-survey-households-postal-services>

²⁵ Small Businesses Survey Results: <https://www.mca.org.mt/consumer/surveys/micro-businesses-perception-survey-postal-services>

Chart 2 – Small Businesses Survey Results



If there was a decrease in the number of addressed letters sent, what are the main reasons?

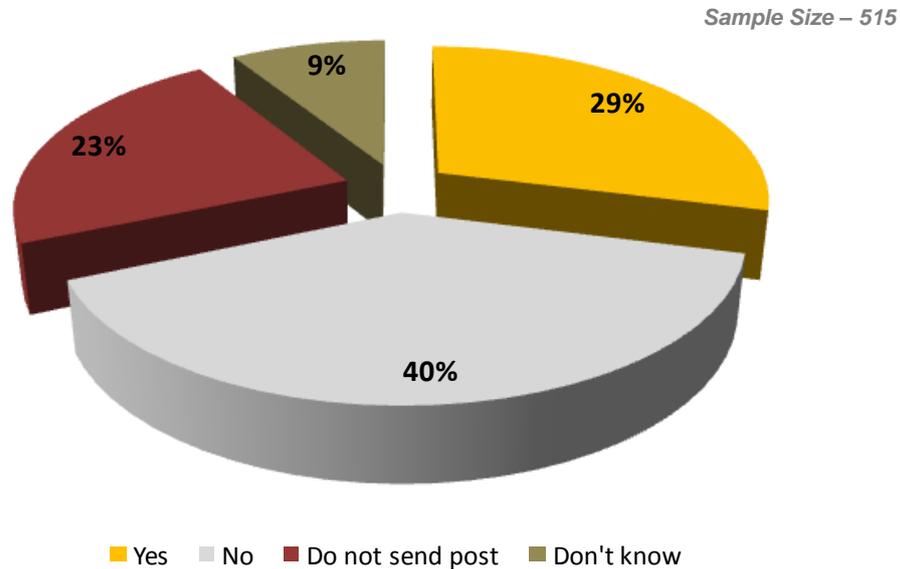


In summary, the evidence presented above therefore suggests that the majority of postal service users today (64 percent of households and 71 percent of small businesses) have continued to send the same volume of traditional single piece letter mail services, with some even claiming to have increased the number of addressed letters sent.

Furthermore, when household respondents were asked whether they would consider switching to non-postal alternatives if the price of a 50 gram addressed letter were to increase by 5 – 10 percent, only 29 percent of households confirmed that they would actually switch. Conversely, 40 percent of households sustained that they would continue to use the traditional postal service.

Chart 3 – Household Substitution to Non-Postal Alternatives

If the price of a 50g addressed letter were to increase by 5% - 10% (e.g. from 20c to 22c) would you consider switching to non-postal alternatives?



All in all, the MCA therefore concludes that notwithstanding the fact that an element of electronic substitution has happened and will continue to happen in the future, the majority of households and small businesses today still use the traditional single piece letter mail services. While it remains true that MaltaPost is facing the challenges expressed by the postal sector worldwide, over the past four years MaltaPost delivered a yearly average of about 9 million domestic single piece letter mail items and an average of around 2.5 million outbound single piece letter mail items a year.

The MCA argues that traditional single piece letter mail services still have an important role to play in today’s modern society. For instance, when billing correspondence from utility companies and other service providers are issued, these letters often contain a self addressed envelope that allows the receiver to remit payment back to the company by way of traditional mail. Similarly, paperwork for the confirmation of large financial transactions, contracts, new credit cards and their corresponding personal identification numbers, as well as many tax return documents are commonly sent through the mail. On the social level, traditional mail services are also important when someone wishes to be deliberate and thoughtful about his or her communication, such as a letter of sympathy to a bereaved person, a postcard or a greetings card. Ultimately, traditional letter mail services continue to serve those who either do not have access to the Internet or lack the basic computer literacy to use non-postal alternatives for communication.

In view of this, the MCA therefore concludes that domestic and outbound single piece letter mail services are still popular and important postal services in Malta. Furthermore, given that MaltaPost is the only operator providing these services, it is unlikely that any single private or business client will be able to leverage any countervailing buyer power on the incumbent.

In conclusion, the MCA thus deems that MaltaPost is still in a position, in the single piece letter mail markets, to behave to an appreciable extent independently of postal service users.

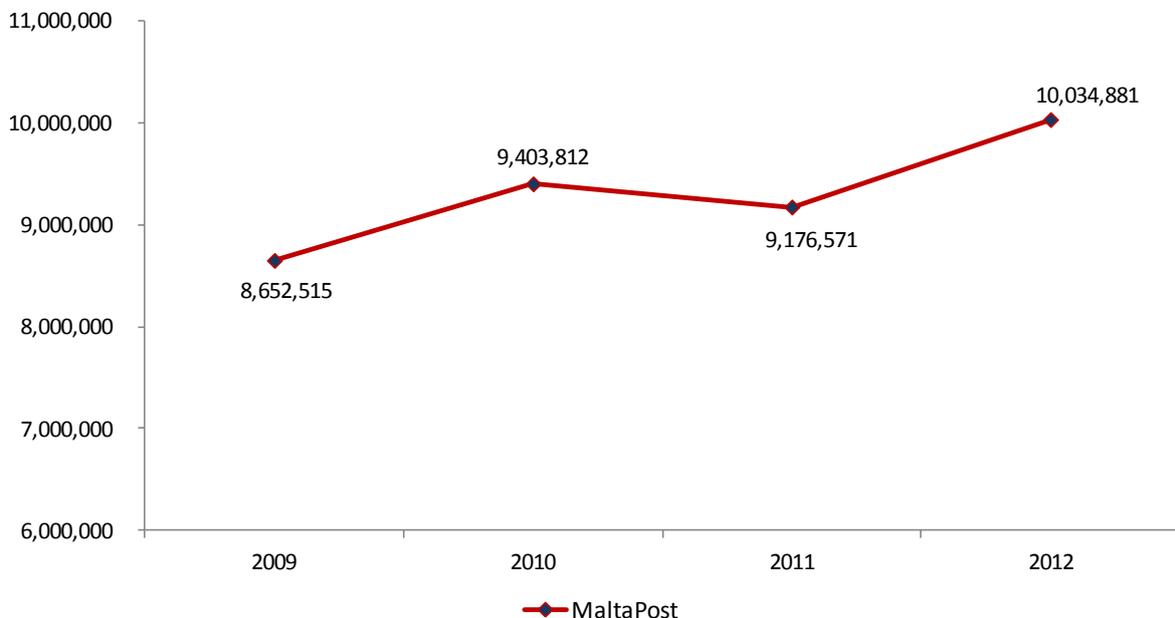
3.3.4 Absence of Potential Competition

The lack of countervailing buyer power in the single piece letter mail markets is mainly the result of the fact that MaltaPost is the sole operator providing postal services in these markets.

The MCA does not envisage the competitive situation to improve during the timeframe of this review as a result of new market entry in these two markets. The MCA has already explained above that new postal operators will face some barriers in trying to enter the single piece letter mail markets and effectively compete with the incumbent. Consequently, potential competition, such that MaltaPost’s market power is eroded, is unlikely to happen during the time period of this review.

In addition to this, the MCA also believes that demand in the single piece letter mail markets is relatively mature and has been experiencing stable growth over the past years. Data collected by the MCA over the past four years in fact shows that MaltaPost’s domestic single piece letter mail volumes have stabilised around 8 to 9 million letters a year, with a onetime increase in 2012 that could possibly be correlated with the run-up to the 2013 general election.

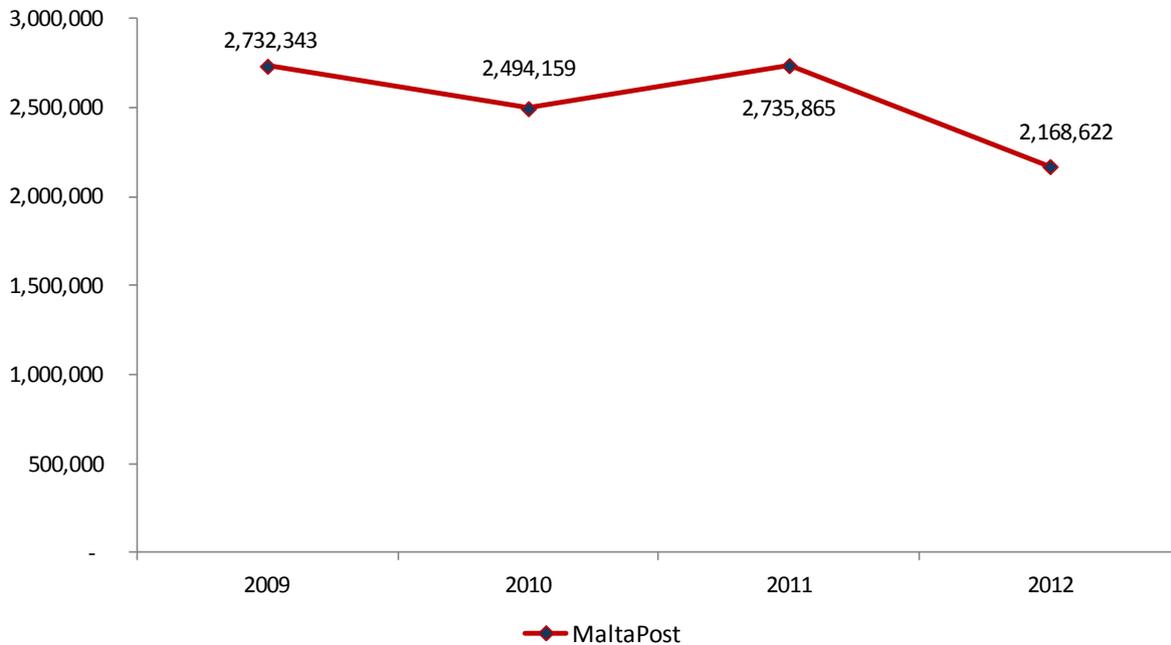
Chart 4 – Domestic Single Piece Letter Mail Volumes



With regards to the outbound single piece letter market the MCA on the other hand observes that between 2009 and 2012 the number of letters fell by circa 21 percent. To this effect, the MCA does not believe that the outbound single piece letter mail market

will, during the timeframe of this review, experience any significant growth in terms of volumes.

Chart 5 – Outbound Single Piece Letter Mail Volumes



In view of the above evidence the MCA therefore concludes that potential competition is unlikely to arise given the market presence of MaltaPost. This is because in a mature market, there may be less of an incentive to compete and attract new customers. Likewise there would be less scope for successful market entry as a new operator would find it difficult to acquire market share and benefit from economies of scale where demand is low.

A potential market entrant would therefore find it hard to incur an investment where the returns from the market would not justify the initial investment costs. As a result this will deter effective competition and reduce any potential impact on the incumbent’s market presence.

3.3.5 Conclusion on the Single Piece Letter Mail Markets

In view of the above assessment and the presence of barriers to entry, the MCA does not expect that within the timeframe of this review conditions in Markets 1 and 2 will change in a manner that effective competition is guaranteed in the absence of regulation. As a result, the MCA believes that MaltaPost will continue to hold SMP in the domestic and outbound single piece letter mail markets.

Q2. Do you agree with the above proposed conclusions regarding the analysis of single piece letter mail markets?

3.4 Analysis of Registered Letter Mail Markets

In this section the MCA will analyse the registered letter mail markets; that is **Market 3** (domestic registered letter mail) and **Market 4** (outbound registered letter mail) of the postal sector.

3.4.1 Market Share

MaltaPost is the sole postal operator providing outbound registered letter mail services; thus enjoying 100 percent market share.

With regards to the domestic registered letter mail market there are two postal operators licensed to provide such services. The licensed operators in this respect are MaltaPost and Premiere Post.

Premiere Post was granted a licence by the MCA to start offering domestic registered letter mail services in March 2007. Premiere Post is therefore in a position to compete directly with MaltaPost in the provision of an equivalent door to door delivery service of registered letters.

Notwithstanding this, the MCA notes that Premiere Post currently provides a dedicated registered postal service that caters for the delivery of summons on behalf of the local enforcement system (LES). In principle, this service may be extended to other customers, as is in fact being promoted by Premiere Post over its website. However, to date the MCA has no evidence of other customers making use of the service provided by Premiere Post. Meanwhile, MaltaPost has managed to retain its position as the main domestic registered letter mail service provider among households and businesses alike. Notably, this state of play between MaltaPost and Premiere Post is also reflected in the market share analysis.

Prior to March 2007, MaltaPost was the sole postal operator providing domestic registered letter mail services, and thus had full control over this market with 100 percent share in volumes. However, when Premiere Post entered the domestic registered letter mail market and started to provide the LES with an equivalent service to that offered by MaltaPost, the latter's market share dropped overnight. Evidently, the delivery of summons on behalf of the LES make up a significant number of registered letter mail volumes in Malta, so much so that MaltaPost's market share fell drastically when Premiere Post took over the delivery of this service. As a result, by the end of 2009 MaltaPost's market share in volumes had fallen to 63 percent.

The MCA however notes that following this single event, both MaltaPost and Premiere Post secured their respective share of the market with no further engagements. To this effect, market shares for MaltaPost and Premiere Post have over the past four years remained constant at 63 percent and 37 percent respectively as depicted below.

Table 2 – Volume Market Share by Operator

Volume Market Share		2009	2010	2011	2012
Domestic Registered Letter Mail	Maltapost	63%	63%	62%	63%
	Premiere Post	37%	37%	38%	37%

In view of this, the MCA concludes that whilst the market share of MaltaPost experienced a sudden decline, it nonetheless continues to hold SMP in the domestic registered letter mail market. Furthermore, with the current state of play the MCA believes that MaltaPost will not retreat from this position during the timeframe of this review. This is because all domestic registered letter mail items, excluding the LES articles, are being delivered by MaltaPost.

3.4.2 Barriers to Entry

Naturally, an SMP operator has a strong incentive to exclude new entrants from the market in an attempt to secure its market power. Barriers to entry typically serve this objective.

In terms of new entrants setting up their own postal network to start offering domestic and outbound registered letter mail services the MCA does not deem this to be a costly and impractical venture. Unlike the single piece letter mail service, the provision of registered letter mail services involves a process of collection, sorting and delivery which is less complex to organise and set up. In essence, the costs involved remain to be largely fixed in nature but are then again significantly lower compared to the provision of single piece letter mail services.

For instance, with respect to the collection stage, postal operators wanting to start offering registered letter mail services only need to have a central post office and/or a number of sub-post agents on a commission paid basis to collect registered letter mail items. The central post office may likewise be used as a sorting hub. The workforce complement required to deliver registered letter mail services is also significantly lower than the number of employees involved in the delivery of single piece letter mail services. If the new entrant wishes to also provide outbound registered letter mail services, then the operator would also have to extend this network internationally by negotiating bilateral/multilateral agreements with foreign postal operators.

In view of this assessment, the MCA therefore suggests that it is quite possible for a new entrant to develop its own postal network and compete directly with MaltaPost in the provision of registered letter mail services.

Notwithstanding the above assessment, the MCA believes that new entrants would only be able to successfully compete with the incumbent operator MaltaPost if they manage to achieve scale in the number of registered letter mail volumes. To this extent, the MCA believes that Premiere Post's entry into the domestic letter mail market would not have been successful if it had not managed to shift away from MaltaPost the LES, which alone

makes up for some 37 percent of the total domestic registered letter mail market. Similarly the MCA deems it would be very difficult for Premiere Post to continue in operation in the event that the LES were to shift back to MaltaPost. As has been already established in the market share analysis above, Premiere Post has not acquired other registered letter mail users and thus in losing the LES Premiere Post's survival in the market would be seriously undermined.

The MCA also believes that given the small scale size of the domestic and outbound registered letter mail markets the situation for new entrants is more difficult than it was for Premiere Post. To begin with, Premiere Post has already managed to secure a good share of the domestic registered letter mail market by roping in a large client such as the LES. Hence there is further limited scope for new market entrants.

Furthermore, the MCA notes that there are no other registered letter mail users, similar to the LES, which alone comprise such a significant share of the market. This in itself already poses a challenge for new entrants to gain significant market share in a short period of time. Consequently new entrants will have to compete with MaltaPost for the individual household and business registered letter mail users.

Again this poses a challenge for new entrants since MaltaPost, having been providing domestic and outbound registered letter mail services for quite a number of years, has managed to establish itself, among both residential and business customers, as the leading nationwide provider of registered letter mail services. Thus for new entrants to be able to compete with the established incumbent they would need to intensify their market presence by replicating MaltaPost's corporate goodwill. This in reality is likely to prove very difficult for new entrants to achieve.

Having said this, the MCA also argues that even if new entrants were to successfully penetrate MaltaPost's market this may still be insufficient to justify their investment. According to the MCA, during 2012 MaltaPost delivered a total of 307,000 domestic registered letters. As will be explained further down in the analysis these volumes may not be sufficient to sustain new market entry.

In view of the above, the MCA also suggests that given the size of the domestic and outbound registered mail markets it is very unlikely for any operator to benefit from significant economies of scale in these markets. On the other hand, however, MaltaPost is likely to enjoy high economies of scope in Markets 3 and 4 in comparison to existing operators and new competitors. MaltaPost's presence in other postal service markets enables it to benefit from economies of scope, where the average costs of providing the registered letter mail services are lower given that these are shared over a greater range of services.

Premiere Post, on the other hand, is only present in the domestic registered letter mail market and is thus unable to benefit from any economies of scope. The ability of MaltaPost to benefit from economies of scope can also act as a barrier to entry for new competitors.

In essence, Premiere Post and any new entrants can achieve such economies of scope only if they enter a large number of postal markets and with sufficient scale. In reality, this will be difficult during the timeframe of this review, given that it requires more time and resources to extend the postal network in order to have the capacity to cater for a whole range of postal services. Similarly, it would also require scale to justify such an investment.

All in all the MCA therefore concludes that while it is quite possible for new operators to enter the domestic and outbound registered mail markets by setting up their own postal network, the small size of such markets is likely to deter any new entry. Moreover the MCA also believes that MaltaPost's market penetration and strong customer base across the whole range of postal services continues to underline its market dominance in both the domestic and outbound registered letter mail markets, in relation to any other provider. With this outlook the MCA thus concludes that conditions in the registered letter mail markets will continue to confer competitive advantages in favour of the incumbent in a way it supports the SMP position it holds in relation to Premiere Post and potential new entrants.

3.4.3 Countervailing Buyer Power

With reference to the outbound registered letter mail market, the MCA explained that MaltaPost is the sole postal operator offering such services. Therefore someone who wants to send abroad a registered letter mail item has no other alternative but to use MaltaPost's service. As a result, postal users cannot exert any countervailing buyer power on the incumbent operator to sufficiently constrain its power in the outbound registered letter mail market.

On the other hand, the MCA has already described that there are two licensed operators in the domestic registered letter mail market. Notionally, this implies that postal users can potentially exert countervailing buyer power by switching to the alternative operator if the incumbent attempts to leverage its market power. However, the fact that Premiere Post currently provides a dedicated registered postal service that caters solely for the delivery of summons on behalf of the LES provides no alternative for postal users to switch. Subsequently, countervailing buyer power in the domestic registered letter mail market is to this point insufficient.

Moreover, even if Premiere Post were to extend this dedicated service to other customers it may still not be sufficient to constrain MaltaPost's market power. MaltaPost, having been the *de facto* monopoly for a long time, is the postal operator known by users for providing registered mail services, and such goodwill is difficult to erode.

According to the 2011 postal surveys²⁶ carried out by the MCA, only 17 percent of household respondents claimed to have been aware that traffic fines are also delivered by another operator, apart from MaltaPost. Furthermore, out of this 17 percent, only 6 percent could name Premiere Post as being that operator. This evidence stands to show

²⁶ Household Survey Results:

<https://www.mca.org.mt/consumer/surveys/consumer-perception-survey-households-postal-services>

that the majority of residential postal service users are not aware of Premiere Post, thus making it a challenge for the latter to penetrate MaltaPost's market if it decided to. Naturally, this assessment applies to other potential new entrants as they too would have to create their own service awareness if they are to successfully penetrate the incumbent's market.

On these lines, the extent of countervailing buyer power will not solely depend on the customers' ability to switch between alternative operators but also on their willingness to try a new postal provider. If customers are satisfied by the services being offered or have had a long-term relationship with the postal operator, then customers are likely to be unwilling to exert countervailing power by way of switching to an alternative operator.

The MCA deems that this may very well be the case given the long-term relationship that exists between MaltaPost and local postal service users. It is more so likely to be the case in the registered mail markets given that registered letter mail services generally demand an element of reliance, trust and security out of the fact that most registered postal items are considered to be valuable or sensitive. To this effect, postal service users wanting to send a registered postal item may be more inclined to use the incumbent postal operator with which they have a long time relationship of reputation and trust rather than the new postal provider. As a result of this, countervailing buyer power would be once again insufficient.

The MCA also suggests that substitution between registered letter mail services and electronic ways of communication is less plausible than that described under the single piece letter mail markets. This is because registered letter mail items are considered to be valuable and need a chain of custody that provides more control than regular mail, so much so that people use the registered mail service in order to make sure that the postal article has been delivered. Moreover, registration provides guarantee against risks of loss, theft or damage and supplies the sender, where appropriate upon request, with proof of the handing in of the postal article and, or of its delivery to the addressee.

In essence, electronic ways of communication may in some aspects provide for some of these requirements. For example, someone sending an e-mail may set the option to request a delivery receipt and/or a read receipt from the receiver. If the receiver complies, then the sender would have proof of delivery. Having said this, the MCA points out that these electronic features are optional and while the receiver may fail to send a delivery/read receipt he would still have received the e-mail and be aware of its content.

On the other hand, the delivery of registered mail requests a signature from the addressee as proof that the item has been delivered.²⁷ For this matter, a registered postal article cannot be delivered unless it is handed to the addressee in person, or to anyone residing in the same address, against his/her signature. Likewise, if the receiver refuses to sign for the postal article this would automatically deny him the right to receive the postal article and its contents would be sent back to the sender.

²⁷ Contrary to the delivery procedures applied for normal registered items the LES summons will be delivered to the intended addressee even if unsigned. Subsequently, an advert notifying the delivery is then published in the local news papers. In this way summons will be delivered to the intended recipient irrespective of whether or not he/she accepts it. Likewise it would not then be possible for the recipient to exonerate himself from paying the fine on grounds that he/she did not receive the summon or wasn't aware of it.

Registration of postal articles may also be a legal requirement in specific instances related, but not limited, to summons, court cases, paper work for the confirmation of large financial transactions, tendering and contract agreements, examination and medical results. In this regard, electronic mail is not an option.

In summary, the MCA therefore concludes that electronic mail and registered letter mail services are functionally different from each other to the extent that they cannot be considered to be pure substitutes. To this effect, registered letter mail users cannot exert countervailing buyer power on the incumbent postal operator by switching to non-postal alternatives.

At the same time, the MCA also concluded that currently no alternative postal operator, with the one exception for the LES, directly and effectively competes with MaltaPost in the provision of domestic and outbound registered mail services. Consequently, postal users cannot exert any countervailing buyer power such that MaltaPost's market power is adequately constrained. Moreover, the MCA also suggests that even if new postal operators were to be in direct competition with MaltaPost to the extent that customers would be able to switch between alternative operators, their long term relationship with MaltaPost may stop them from exerting such power.

The MCA deems that MaltaPost is still in a position to enjoy from SMP in the registered letter mail markets.

3.4.4 Absence of Potential Competition

Competition is largely dependent on the ability of new operators to enter the market and for existing operators to expand or increase their business capacities. Essentially, there may be more active competition where there are low barriers to market growth and expansion.

The MCA has already described that new entry has happened in the domestic registered letter mail market. Premiere Post was granted a licence by the MCA to start offering domestic registered letter mail services in March 2007. At the same time, the MCA has also explained that it is quite possible for a new entrant to build its own postal network and compete directly with MaltaPost in the provision of registered letter mail services.

The MCA however acknowledges that new entry into any market is not alone sufficient to conclude that the market is moving towards a competitive outlook. The MCA would therefore have to establish whether new players are successfully managing to penetrate the market and compete with the more established operator. Simultaneously, the market must in some way or another manifest this outcome in favour of customers for otherwise competition cannot be deemed to be effective and reaching the desired results.

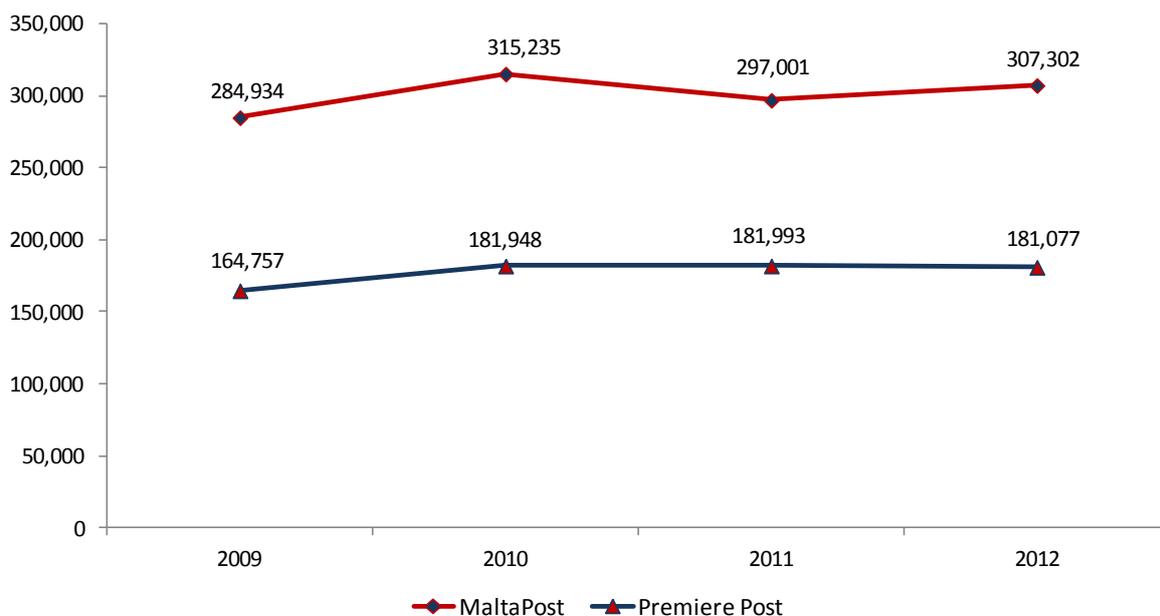
At the outset, the MCA has already explained that Premiere Post currently provides a dedicated postal service that caters solely for the delivery of summons on behalf of the LES. With this current state of play, the MCA cannot therefore conclude that the domestic and outbound registered letter mail markets are moving towards a competitive outlook, such that MaltaPost's market power is kept in check.

Market shares for MaltaPost and Premiere Post have over the past four years remained constant at 63 percent and 37 percent respectively. Notionally, this implies that there has been no further contestation by Premiere Post to acquire more market presence by way of direct competition with MaltaPost. The MCA therefore concludes that competition in the domestic registered mail market cannot be deemed to be effective and reaching the desired results. At the same time, the MCA also concludes that there is no competition in the outbound registered letter mail market given that MaltaPost is the sole postal operator providing this service.

In the mean time, the MCA does not expect this situation to change during the timeframe of this review given that new competition is not likely to emerge in Market 3 and Market 4. The MCA has already described above that MaltaPost’s strong market presence and long standing customer base may impede new operators from entering the domestic and outbound registered letter mail markets or compete at par with the incumbent MaltaPost. Consequently, this situation will continue to confer competitive advantages in favour of the incumbent in a way it supports the SMP position it holds in relation to Premiere Post and potential new entrants.

In addition to all this, the MCA believes that demand in the domestic registered letter mail markets is relatively mature and appears to have reached saturation over recent years. Data collected by the MCA over the past four years shows that MaltaPost’s domestic registered letter mail volumes have stabilised around 300,000 registered letters a year. With reference to Premiere Post, data shows that over the period 2009 to 2012 registered letter mail volumes have stabilised around 180,000 registered letters a year.

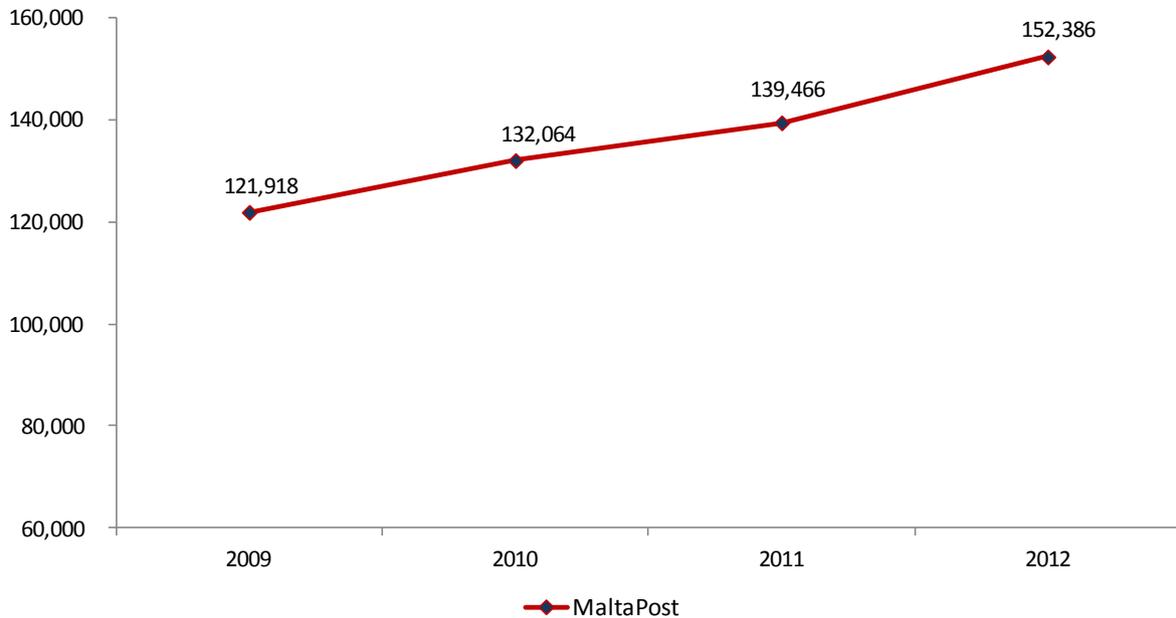
Chart 6 – Domestic Registered Letter Mail Volumes



With regards to the outbound registered letter mail market, of which MaltaPost is the sole postal operator, the MCA observes that the number of outbound registered letters

delivered increased steadily to the tune of 25 percent over the four year period between 2009 and 2012.

Chart 7 – Outbound Registered Letter Mail Volumes



All things considered the MCA however argues that the registered letter mail markets are quite restricted in terms of actual volume levels and may lack the necessary critical mass for new entry to be successful. With a total of 480,000 domestic registered letters and 150,000 outbound registered letters delivered a year the MCA believes that further market entry is unlikely to materialise in the registered letter mail markets.

3.4.5 Conclusion on the Registered Letter Mail Markets

In view of all the evidence presented above the MCA concludes that effective competition is unlikely to emerge during the time period of this review in the domestic and outbound registered letter mail markets. Consequently, the MCA believes that MaltaPost will continue to hold onto its SMP in the registered letter mail markets.

Q3. Do you agree with the above proposed conclusions regarding the analysis of registered letter mail markets?

3.5 Analysis of Bulk Letter Mail Markets

Following the analysis of the single piece letter mail markets and the registered letter mail markets, the MCA will now analyse the bulk letter mail markets; that is **Market 5** (domestic bulk letter mail market) and **Market 6** (outbound bulk letter mail market) of the postal sector.

3.5.1 Market Share

MaltaPost is currently the sole postal operator providing domestic bulk letter mail services and outbound bulk letter mail services. It thus follows that MaltaPost enjoys 100 percent market share in both the domestic bulk letter mail market (Market 5) and the outbound bulk letter mail market (Market 6).

Prior to the full market opening of the postal sector, bulk letter mail services essentially fell under the area reserved for MaltaPost as the incumbent designated universal service provider. To this effect competition could not happen in these markets as no postal operator, other than MaltaPost, was licensed to offer such services.

With full liberalisation, the 'reserved area' for MaltaPost has now been completely removed and the potential for a more competitive market environment in the provision of bulk letter mail services is now possible. Having said this, new entry has not yet happened, and likewise no alternative operators have so far expressed any interest with the MCA to start offering bulk letter mail services.

In view of this, the MCA suggests that MaltaPost thus far continues to dominate the bulk letter mail markets with 100 percent share in volumes.

3.5.2 Barriers to Entry

In this part of the analysis the MCA will establish whether the bulk letter mail markets are characterised by barriers to entry, and if so to what extent are these preventing new entry from happening. Barriers to entry typically serve as obstacles for potential operators to enter a market and compete with the incumbent. Subsequently, where barriers to entry are high competition is unlikely to emerge with the result that the incumbent operator continues to enjoy SMP in such markets.

In terms of new entrants setting up their own postal network to start offering domestic and outbound bulk letter mail services the MCA suggests that, unlike the single piece letter mail service, the provision of bulk letter mail services involves a process of collection, sorting and delivery which is less complex to organise and set up. In essence, the costs involved remain to be largely fixed in nature but are then again significantly lower compared to the provision of single piece letter mail services.

For instance, postal operators wanting to start offering bulk letter mail services do not need to have a nationwide infrastructure of post boxes for the collection of postal items as required by the single piece letter mail services. Bulk letter mail items are tendered over the counter and therefore the collection of bulk letter items only requires a central post office. Furthermore, postal operators providing bulk letter mail services may very

well do without the sorting process if they have pre-sorting arrangements with their bulk mail clients. To this effect, the workforce complement required in the provision and delivery of bulk letter mail services will be significantly lower than that required in the provision of single piece letter mail services.

In view of this assessment, the MCA therefore suggests that it is quite possible for a new entrant to build its own postal network and compete directly with MaltaPost in the provision of bulk letter mail services.

On the other hand, the MCA however believes that a new entrant will find it difficult to erode MaltaPost's market share since the incumbent has been the sole provider of domestic and outbound bulk letter mail services for many years. Given this market presence, the MCA therefore suggests that MaltaPost is likely to benefit from economies of scale and would thus be in a position to react quickly and to effectively constrain new entrants.

MaltaPost's presence in other postal service markets also enables it to benefit from economies of scope, where the average costs of providing the bulk letter mail services are lower given that these are shared over a greater range of services. This ability of MaltaPost to benefit from economies of scope can also act as a barrier to entry for new competitors.

In view of all this, the MCA therefore argues that while new operators are not precluded, during the timeframe of this review, from setting up their own postal network for the provision of bulk letter mail services the emergence of effective competition in these markets is not necessary consequential. Put differently, new entry into any market is not alone sufficient to conclude that the market is moving towards a competitive outlook.

In this setting the MCA believes that a new bulk mail operator would only be able to sufficiently compete with the more established incumbent MaltaPost if it captures a large share of market volumes by attracting a number of large bulk mailers such as utility companies, financial institutions and government departments or agencies. Indeed the MCA argues that failure to rope in such clients will make it difficult for new bulk mail operators to acquire scale and to justify market entry.

Likewise, for a new entrant to achieve the economies of scope enjoyed by the incumbent it would have to enter a number of markets and with sufficient scale. This may in effect prove to be difficult during the timeframe of this review as it requires time and investment to develop a fully fledged postal network that would cater for a wide range of postal services. Similarly it would also require scale to justify such an investment.

In summary, the MCA therefore concludes that while it is possible for new operators to enter the bulk letter mail markets, it still remains a challenge for new entrants to launch their own bulk letter mail service and compete with MaltaPost.

3.5.3 Countervailing Buyer Power

It has already been established that MaltaPost is the sole postal operator offering nationwide bulk letter mail services. To this effect it is therefore unlikely for bulk mailers to exert countervailing buyer power to sufficiently constrain the market power enjoyed by the incumbent operator. This is because bulk mail users only have MaltaPost to choose from and cannot therefore switch to alternative postal operators for the bulk letter mail services.

Having said this, the MCA notes that bulk mail users may still be in a position to exercise countervailing buyer power in the absence of an alternative bulk letter mail operator. This may happen by means of substitution between physical and electronic ways of communication.

The MCA has already acknowledged in this document that e-Substitution is a reality in today's world and a challenge faced by the postal sector. At the same time the MCA also emphasized that electronic substitution of mail is not a uniform phenomenon, and mainly depends on the technologies available in each country and how quickly they catch on.

With reference to the local scenario, statistical evidence collected by the MCA shows that domestic bulk letter mail volumes fell by 18 percent over the four year period between 2009 and 2012.

At the outset, the MCA does not rule out that this decline in bulk letter mail volumes may to some extent be related to electronic substitution as more people are resorting to internet banking facilities and online billing transactions. At the same time, however, the MCA believes that e-Substitution is only partly the cause and there may be other underlining factors to this decline in bulk letter mail volumes.

A survey carried out by the MCA with 40 large bulk mailers in the months of January and February 2012²⁸ indicate that the majority of organisations using the bulk mail service do so every week. The survey also shows that 30 percent of participating organisations claim to have increased the number of addressed letters they sent using the bulk mail services.

On the other hand only 25 percent of participating organisations claim to have decreased the number of addressed letters they sent, whilst the remaining 45 percent of all organisations say the number of letters sent has remained relatively the same over the previous twelve months.

In summary, this evidence therefore suggests that the majority of bulk mail users today have continued to use the bulk letter mail service, with a significant 30 percent also claiming to have increased the number of addressed letters sent.

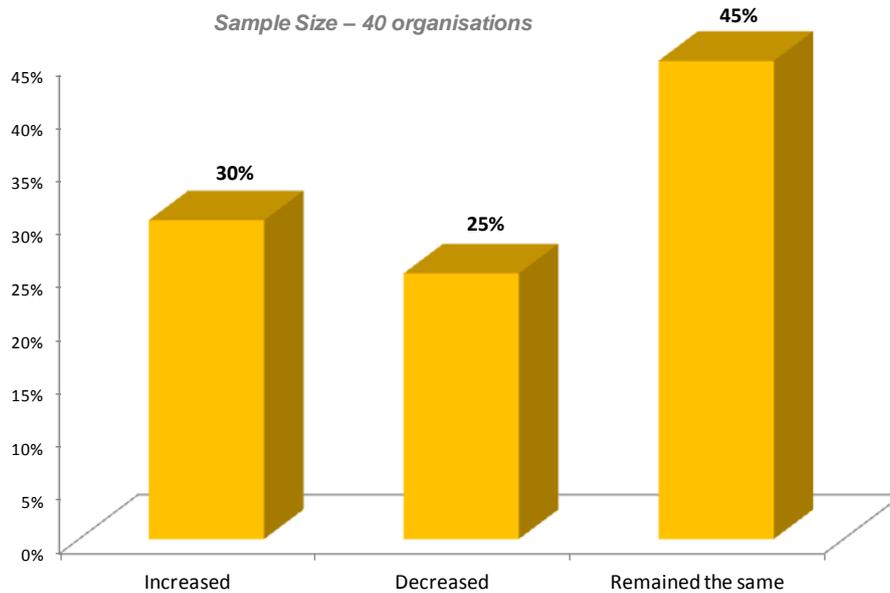
Furthermore, 40 percent of those claiming to have reduced the number of addressed bulk letter mail volumes have not done so as result of electronic substitution but for other

²⁸ Large Bulk Mailers Survey Results:
<https://www.mca.org.mt/service-providers/surveys/large-bulk-mailers-perception-survey-postal-services>

reasons. For instance, the global economic downturn has forced some businesses to reduce their advertising and promotional material sent out by traditional mail in order to cut down on costs. In this regard, the MCA concludes that e-Substitution is only partly to blame for the 25 percent decline in bulk letter mail volumes and thus the extent of countervailing buyer power as a result of e-Substitution is diluted.

Chart 8 – Large Bulk Mailers Survey Results

Did the number of addressed letters sent increase, decrease, or remain the same over the past twelve months?



In addition to the survey results highlighted above, the MCA also explains that bulk mail constitutes a large portion of domestic mail items – approximately 68 percent of all domestic mail items in terms of volumes are posted in bulk. Again this shows that notwithstanding the fact that electronic substitution has happened and will continue to happen in the future, bulk letter mail services are still relevant today for the effective functioning of government, business and commerce in Malta. In essence, large business mailers need to be able to send mail such as statements, advertising mail and bills to all their customers, regardless of where in the country they live. Access to an efficient bulk mail service is also imperative for smaller businesses, facilitating contact with their customer base. Ultimately, traditional bulk letter mail services continue to serve those who either do not have access to the Internet or lack the basic computer literacy to use non-postal alternatives for communication.

The MCA therefore concludes that domestic and outbound bulk letter mail services are still popular and essential postal services in Malta. Furthermore, given that MaltaPost is the only operator providing these services, it is unlikely that any single private or business client will be able to leverage any countervailing buyer power on the incumbent.

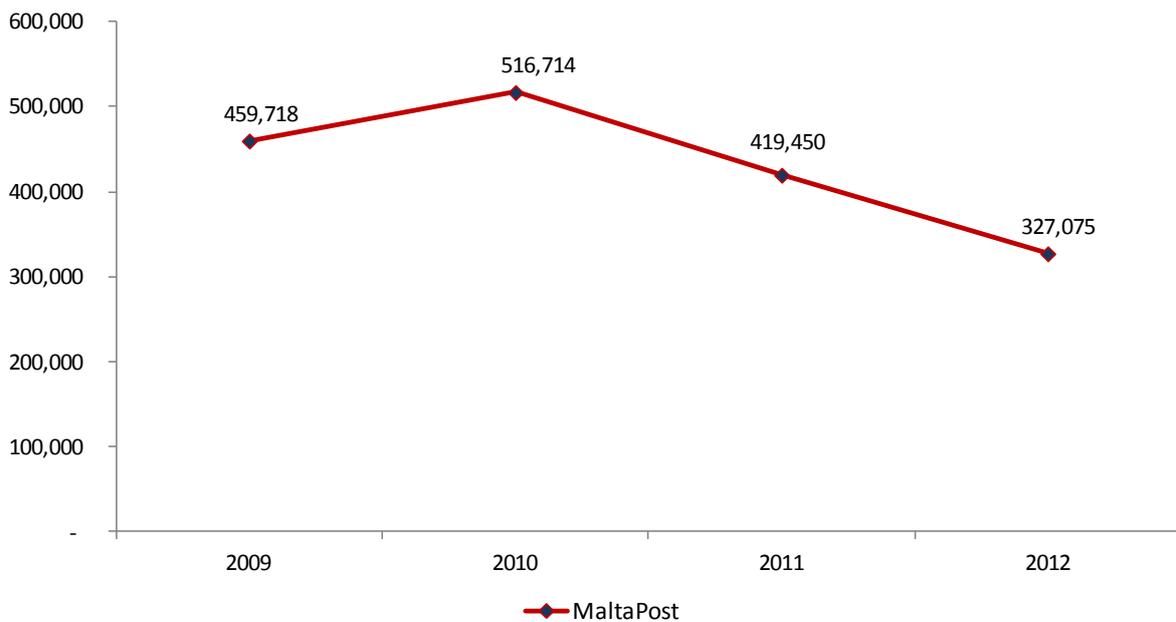
In conclusion, the MCA thus deems that MaltaPost is still in a position, in the bulk letter mail markets, to behave to an appreciable extent independently of bulk mail users.

3.5.4 Absence of Potential Competition

The MCA has already suggested that with full market opening of the postal sector it is now quite possible for a new entrant to build its own postal network and compete directly with MaltaPost in the provision of bulk letter mail services.

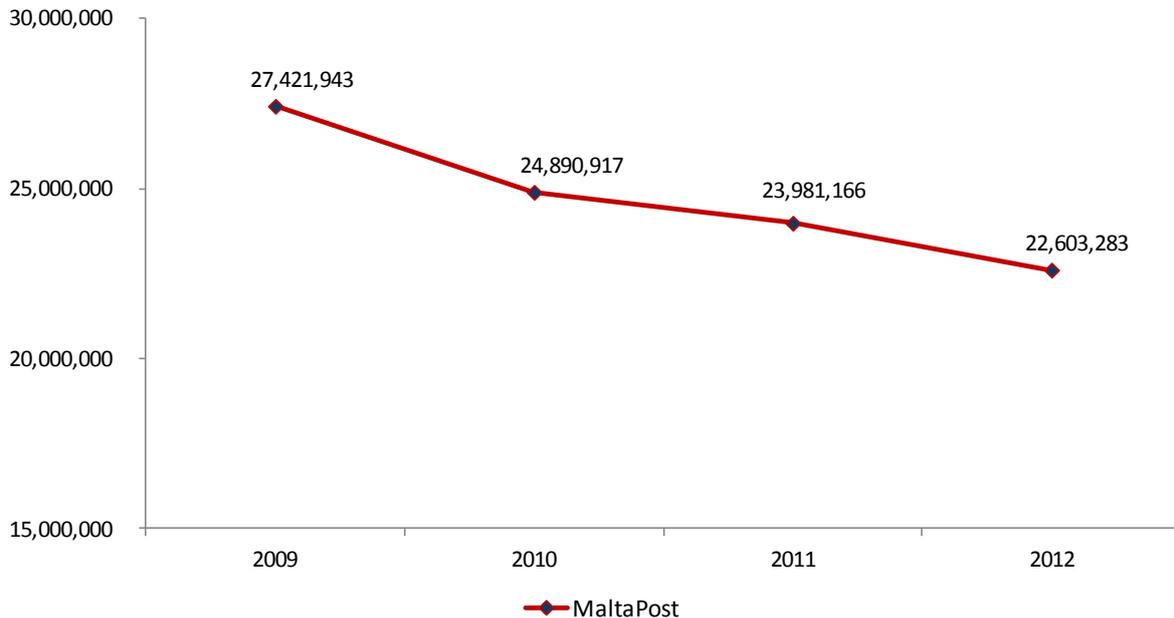
With reference to the outbound bulk letter mail market the MCA however observes that between 2009 and 2012 the number of letters fell by circa 29 percent. Furthermore, the MCA does not believe that the outbound bulk letter mail market will, during the timeframe of this review, experience any significant growth in terms of volumes. To this effect the MCA therefore concludes that it will be difficult for potential competition to emerge in this market. This is because where demand is low and volumes are insufficient, there is less of an incentive to compete and attract new customers. Likewise there is less scope for successful market entry as a new operator would find it difficult to acquire market share and enjoy from economies of scale where demand is low.

Chart 9 – Outbound Bulk Letter Mail Volumes



With regards to the domestic bulk letter mail service the MCA has already noted that domestic bulk letter mail volumes have fallen by some 18 percent over the last four years. Notwithstanding this, the MCA however believes that conditions in the domestic bulk letter mail market are still conducive to attract new operators. It has already been highlighted above that bulk letter mail services form an integral part of the local postal sector so much so that approximately 68 percent of all domestic mail items in terms of volumes are posted in bulk. As a result, MaltaPost, being the sole bulk mail operator, has over the past four years delivered an average of 23 million domestic bulk letter mail items each year.

Chart 10 – Domestic Bulk Letter Mail Volumes



The above evidence shows that demand for domestic bulk letter mail services is still considerable relative to the size of the postal sector in Malta, which in turn suggests that market entry could happen.

However, it is a fact that new entry has not yet materialised, and likewise no alternative operators have so far expressed any interest with the MCA to start offering bulk letter mail services. Furthermore, the MCA reiterates that even if new entry were to happen during the timeframe of this review, this alone is not sufficient to conclude that the market is effectively competitive.

In essence, the new bulk mail operator would only be able to sufficiently compete with the incumbent if it successfully penetrates the market and be able to capture a significant share of market volumes in order to acquire sufficient scale.

Conclusively, the MCA therefore suggests that while it is possible for new operators to enter the domestic bulk letter mail markets, it still remains to be a challenge for new entrants to launch their domestic bulk letter mail service and compete with the more established incumbent MaltaPost.

3.5.5 Conclusion on the Bulk Letter Mail Markets

In view of the above analysis, the MCA concludes that MaltaPost will continue to hold onto its market power in both the outbound bulk letter mail market and the domestic bulk letter mail market.

The MCA deems it is important to continue regulating the bulk letter mail markets during the timeframe of this review. At the same time, the MCA will continue to monitor closely

developments in these markets and where appropriate shall carry out a new analysis in advance, if and when, conditions of competition change significantly.

Q4. Do you agree with the above proposed conclusions regarding the analysis of bulk letter mail markets?

3.6 Analysis of Parcel Post Markets

The analysis of the parcel post markets, comprising **Market 7** (domestic parcel post) and **Market 8** (outbound parcel post) of the postal sector, will be carried out following the national consultation exercise of the letter mail markets identified and analysed above.

In carrying out two separate reviews, one for letter mail markets and another for the parcel post markets, the MCA believes that this would allow for more focus on the peculiarities of the markets under investigation, and also facilitate the consultation process.

The MCA intends to carry out the market analysis of the parcel post markets following the national consultation process of the letter mail markets. It is also the intention of the MCA to consult on the findings of the parcel post market analysis with all the stakeholders of the postal sector late in Q3 2013. Given this timeframe, the MCA would thus be in a position to conclude the first round of market analysis for the postal sector by the end of 2013.

Chapter 4 Regulatory Obligations

4.1 Background to Regulation

In accordance with Regulation 64C of the Postal Services Regulations [SL254.01 of the Laws of Malta], “where the Authority determines that a postal services market is not effectively competitive, it shall designate postal operators as having significant market power in accordance with regulation 64B, and it shall impose on such postal operators appropriate regulatory obligations, or maintain and amend such obligations where they already exist”.²⁹

On the other hand, “where the Authority determines that a postal services market is effectively competitive, it shall not impose or maintain any of the specific regulatory obligations applicable to a postal operator with significant market power, provided that in cases where a postal operator had previously been designated as having significant market power and such obligations already exist, the Authority shall, after giving reasonable notice to any parties which the Authority considers to be affected by such withdrawal, withdraw such obligations onerous on the postal operator concerned”.³⁰

4.2 Existing Obligations

In order to ensure a smooth transition to a fully liberalised and competitive market environment, on the 26th December 2012 the MCA designated MaltaPost as having a priori SMP in all the postal services markets identified above.³¹ Given the position of SMP held by MaltaPost in the above mentioned postal services markets, MaltaPost is required to abide by the following regulatory obligations.

4.2.1 Obligation to Provide Services at Cost-Oriented Prices

Cost-oriented rates ensure that a postal operator does not charge excessive prices to customers, nor does it attempt to restrict market entry by charging unreasonably low prices or unfairly squeezing the margins of competitors or potential competitors to the detriment of competition.

In accordance with regulation 64E of the Postal Services Regulations, MaltaPost is required to provide postal services in the above mentioned markets to customers at cost-oriented prices, that is to say, that prices shall take account of, and reflect the costs of, providing the postal service or part of the postal service in that market.

²⁹ Regulation 64C (4) of the Postal Services (General) Regulations

³⁰ Regulation 64C (3) of the Postal Services (General) Regulations

³¹ Refer to MCA Decision Notice on designation of MaltaPost as having SMP:
<http://www.mca.org.mt/decisions/designation-maltapost-having-significant-market-power>

4.2.2 Obligation of Non-Discrimination

In accordance with regulation 64F of the Postal Services Regulations, MaltaPost is required to provide postal services in the above mentioned markets to customers at prices, terms and conditions that are non-discriminatory. MaltaPost must not discriminate in favour of itself, or of its subsidiaries or partners, in the provision of such services.

The obligation to provide such postal services on a non-discriminatory basis requires that differences in the prices, terms and conditions for comparable postal services have to be based on objective differences, such as, but not limited to, variations in the cost of the service provided, variations in the quantity or quality of the service provided, or variations in the duration of the service agreement period.

The provision of services at prices, terms and conditions which are non-discriminatory would ensure that a postal operator does not discriminate in favour of particular customers in such manner as to have a detrimental effect on competition.

4.2.3 Obligation of Provision of Services on an Unbundled Basis

Though bundling is intended to provide customers with better products or offerings in more cost effective ways, an undertaking with SMP in one product market (or more) of a bundle, can potentially harm consumers by foreclosing the market for the other products that are part of the bundle. To mitigate the effects of unreasonable bundling, a postal operator found to enjoy SMP in a relevant postal services market is required to provide such services in that market also on a standalone basis.

In accordance with regulation 64G of the Postal Services Regulations, MaltaPost is required to provide postal services in the above mentioned markets on an unbundled basis.

This means that MaltaPost must not require that, as a condition for purchasing a particular postal service, a customer must also purchase any other postal service or non-postal service. However, MaltaPost may offer customers the option of purchasing a package that contains multiple postal services and non-postal services or products.

4.2.4 Approval and Publication of Tariffs

In accordance with regulation 64H of the Postal Services Regulations, and in accordance with any decision issued by the MCA³², MaltaPost is required to submit a tariff for the written approval of the MCA prior to offering or modifying the terms and conditions on which it offers any postal service that it provides in the above mentioned markets, including postal services designed for specific customers. In addition, MaltaPost is required to obtain the written approval of the MCA prior to the withdrawal of a postal service that it provides in the above mentioned markets.

³² Refer to the MCA's Decision entitled 'Price Control Mechanism for MaltaPost Plc and Revised Postal Tariffs' published on the 8th of November 2012:
<http://www.mca.org.mt/service-providers/decisions/price-control-mechanism-maltapost-plc-and-revised-postal-tariffs>

MaltaPost is required to disclose, by publishing on its website, the effective tariff not later than the date on which it begins to provide the postal service described in the tariff approved by the MCA. Where MaltaPost has obtained the MCA's approval to modify the tariff for an existing postal service, it must make the required publication no later than the date on which the modification becomes effective. The information must, as a minimum, include a service description, prices, service quality and availability, and eligibility requirements.³³ The information must be published in a manner that is readily available, current and easy-to-understand.

The MCA may review these tariffs at any time to determine whether the prices, terms and conditions are cost-oriented and non-discriminatory.

4.2.5 Accounting Separation

In accordance with regulation 64I of the Postal Services Regulations and without prejudice to article 23 of the Postal Services Act,³⁴ a postal operator designated as having SMP in a postal services market is required to keep separate accounts within its accounting system in line with any directives that the MCA may issue.

In accordance with article 23 of the Postal Services Act, MaltaPost, as the designated USP, is required to keep separate accounts within its accounting system for each of the postal services which are part of the universal services on the one hand and those which are not on the other. MaltaPost is required to continue to maintain the level of accounting separation as identified under the MCA's decision on Accounting Separation³⁵ until such time as any adjustments are required.

4.3 Proposed Decision on Regulatory Intervention

With reference to the evidence presented above the MCA concludes that MaltaPost continues to retain its SMP position in all the letter mail markets identified above, that is the:

- domestic and outbound single piece letter mail markets
- domestic and outbound registered letter mail markets
- domestic and outbound bulk letter mail markets

As a result the MCA believes that if unregulated, MaltaPost has the power to constrain potential competition from emerging in the letter mail markets, and consequently behave to an appreciable extent independently of users and potential competitors.

To this effect, the MCA therefore deems it is very important to continue regulating the letter mail markets during the timeframe of this review. Consequently, the MCA shall

³³ In accordance with regulation 64H(2) of the Regulations, the MCA may issue directives in respect of the manner in which approved tariffs, terms and conditions (including quality of service) are published.

³⁴ Article 23 of the Act refers to the accounting procedures required by a designated USP, such as, MaltaPost.

³⁵ Refer to the MCA's Decision on the Accounting Separation and Publication of Financial Information by MaltaPost Plc published in January 2005:

<http://www.mca.org.mt/article/accounting-separation-and-publication-financial-information-maltapost-plc>

continue to impose on MaltaPost all the above mentioned regulatory obligations in Section 4.2, to ensure that MaltaPost does not:

- charge excessive prices;
- inhibit market entry or restrict competition by setting predatory prices;
- show undue preference to specific end-users; or
- unreasonably bundle services.

As for the parcel post markets, that is Market 7 (domestic parcel post) and Market 8 (outbound parcel post), the MCA has already explained that these two markets will be analysed in a separate market review following the national consultation of this document. Until then, the MCA's decision of the 26th December 2012³⁶ designating MaltaPost as having a priori SMP will remain into force and MaltaPost shall continue to abide by those regulatory obligations in the parcel post markets.

4.4 Statutory Power not Affected

Nothing in this document shall limit the MCA in the exercise and performance of its statutory functions, powers and duties under legislation (in force prior to or after the effective date of this document becoming a Decision) from time to time as the occasion may require. The above mentioned regulatory obligations are without prejudice to the power of the MCA to issue any directives to MaltaPost as it may be authorised to issue at law, including but not limited to any such directives issued in respect of article 76A of the Postal Services Act, Chapter 254.³⁷

Any decisions issued by the MCA prior to the effective date of this consultation document becoming a decision shall continue to be in force until revoked or amended by the MCA.

4.5 Monitoring Market Developments

The postal sector in Malta was only fully liberalised on 1st January 2013. The MCA thus considers that it is very important to keep a close watch on all the postal markets identified in Chapter 2 above for any signs of progress and developments.

To this end, the MCA intends to monitor market trends and developments on an ongoing basis, and remains committed to carry out new analysis on any one of the postal markets identified and at any point in time in response to any significant development in that market.

Q5. Do you agree with the above proposed conclusions regarding the regulatory obligations for the letter mail markets?

³⁶ Refer to MCA Decision Notice on designation of MaltaPost as having SMP:
<http://www.mca.org.mt/decisions/designation-maltapost-having-significant-market-power>

³⁷ Link to Postal Services Act:
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8748&l=1>

Submission of Responses

In accordance with its obligations under Article 4A of the Malta Communications Authority Act [Cap. 418 of the Laws of Malta], the Authority welcomes written comments and representations from interested parties and stakeholders during the national consultation period which shall run from the **9th July 2013** to the **13th September 2013**.

The Authority appreciates that respondents may provide confidential information in their feedback to this consultation document. This information is to be included in a separate annex and should be clearly marked as confidential. Respondents are also requested to state the reasons why the information should be treated as confidential.

For the sake of openness and transparency, the MCA will publish the respondents to this consultation. Furthermore, in accordance with the MCA's confidentiality guidelines and procedures³⁸, all feedback will be published, except where respondents indicate that a response, or part of it, is confidential. The Authority will take the necessary steps to protect the confidentiality of all such material as soon as it is received at the MCA offices. Respondents are however encouraged to avoid confidential markings wherever possible.

All responses should be submitted by email and/or in writing to the Authority, by the **13th September 2013** and addressed to:

Mr. Patrick Vella
Chief, Policy and Planning
Malta Communications Authority
Valletta Waterfront, Pinto Wharf,
Floriana, FRN1913
Malta.
Email: **patrick.b.vella@mca.org.mt**
Tel: +356 21 336 840 Fax: +356 21 336 846

Extensions to the consultation deadline will only be permitted in exceptional circumstances and where the Authority deems fit. The MCA reserves the right to grant or refuse any such request at its discretion. Requests for extensions are to be made in writing within the first ten (10) working days of the consultation period.

³⁸ http://www.mca.org.mt/sites/default/files/articles/confidentialityguidelinesFINAL_0.pdf