



Postal Sector – Managing Common Operational Issues in a Multi-Operator Environment

Consultation Paper

19th August 2009

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Foreword

The Malta Communications Authority (MCA) is the statutory body responsible for the regulation of the postal sector in Malta as stipulated in the Malta Communications Authority Act (Cap 418) and the Postal Services Act (Cap 254). Apart from the regulatory aspect, the MCA is also responsible for promoting competition, protecting consumers and encouraging innovation.

On the 20th February 2008 the European Parliament and the Council adopted Directive 2008/06/EC¹ which amended the existing Postal Directive and defined 2010, and for some Member States 2012, as the final step in the gradual opening of the postal sector. Malta was among eleven (11) of those Member States, which were given the option to postpone the full liberalisation of the postal market until the 31st December 2012, in order to continue to reserve services to the universal service provider/s to the extent necessary to ensure the maintenance of the universal service.² In August 2008, the Government decided to postpone the full liberalisation of the postal sector by not later than the end of December 2012.

In order to create the conditions for an environment that is conducive to the onset of competition and in preparation of full market opening of the postal sector, this document consults on the MCA's proposal to introduce a set of minimum standards setting out the duties and obligations of licensed postal operators (i.e. postal operators operating services falling within the scope of the universal service) relating to common inter-operator issues that will arise in a multi-operator environment.

The objective of the proposed minimum standards is to minimise postal operator and consumer confusion in a multi-operator environment, thereby ensuring prompt handling and delivery of postal articles.

The MCA is therefore seeking the views and comments of all interested parties on the proposed minimum standards for managing common operational issues put forward in this consultation document. The MCA will also welcome proposals on alternative arrangements that could address the issues more effectively. This consultation will run from the **19th August 2009** to the **16th September 2009**. Please refer to **Section 5** for further details about submitting comments.

¹ In June 2009 the Ministry for Infrastructure, Transport and Communications (MITC) published a Consultation Paper (https://mitc.gov.mt/MediaCenter/PDFs/1_MITC-Consultation%20Booklet.pdf) on the proposed amendments to the Postal Service Act. The Consultation paper consults on, amongst others, the amendments required to the local legislative framework in order to transpose Directive 2008/06/EC.

² Postal services weighing less than 50 gr and costing less than two-and-a-half times the basic tariff are currently exempt from competition and restricted to Maltapost.

1. Introduction

The current postal market in Malta can be considered to be partially liberalised. In fact, despite the current reserved area restricted to Maltapost Plc (Maltapost) as the designated universal service provider (USP),³ in March 2007 Premiere Post Ltd (Premiere Post) was issued with a licence to operate services falling within the scope of the universal service.⁴ Premiere Post currently delivers the majority of the traffic summons issued by the local wardens via a 'registered type' of postal service.⁵

At this point in time there are no indications that there exist any problems between the currently licensed postal operators (i.e. Maltapost and Premiere Post) in dealing with common postal inter-operator issues. However, the MCA is of the opinion that a framework which would regulate the relationships between licensed postal operators in a multi-operator environment is necessary to continue to create the conditions for an environment that is conducive to the onset of competition and in preparation of full market opening of the postal sector.

Setting out in a clear manner how postal operators are expected to work together wherever necessary, and ensuring that proper systems and procedures are in place to deal with any 'overlaps' that might occur between postal operators, ensures that users continue to receive a quality service and that mail integrity is safeguarded.

In recognising the need for a framework to manage inter-operator issues, the MCA is proposing the introduction of a set of minimum standards which set out the duties and obligations of licensed postal operators for managing common operational issues (refer to **Appendix A**).

The common operational issues discussed in this consultation apply to:

- the identification of mail as carried by a postal operator;
- accessing elements of the postal infrastructure⁶ and services;⁷
- the timely and efficient extraction and repatriation of mail which has entered the postal facilities of a postal operator which is not the intended operator;⁸ and
- the redirection of misdirected customer enquiries.

³ Refer to Maltapost's Licence as the designated universal service provider in line with the Postal Services Act - <http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/254/14.pdf>.

⁴ Refer to Premiere Post's Licence for operating services within the scope of the universal service - <http://www.mca.org.mt/filesystem/pushfile.asp?id=1018&source=3&pin=>

⁵ Legal Notice 133 of 2004 - Local Tribunals (Delivery of Summons) Regulations - <http://docs.justice.gov.mt/lom/legislation/english/subleg/291/01.pdf>

⁶ The postal infrastructure comprises the structures and facilities necessary to guarantee the consumer an effective and reliable mail delivery in the country.

⁷ Including access to the mail redirection and postcode information and post office boxes.

⁸ Including misposted and reposted (gone away, forwarded, misdelivered etc) and referred to together as "misdirected mail".

The proposed minimum standards will help to maintain mail integrity,⁹ preserve customers' confidence in the postal system and provide operational certainty to new entrants in those sectors of the postal market that are liberalised. The MCA believes that the proposed minimum standards are important during the early stages of liberalisation, and should remain relevant in the long term to protect consumers' interests.

Given that Maltapost is the designated USP,¹⁰ the MCA also intends to require Maltapost to propose a standard offer (referred to as a 'Reference Offer') that would set out the processes and arrangements that Maltapost would commit to adopting to address the common inter-operator issues between Maltapost and other licensed postal operators (refer to **Section 3**). As for operational issues between other licensed postal operators, the MCA believes that they should have the necessary incentives to commercially negotiate and agree on the most efficient arrangements among themselves.

The MCA will maintain the role of managing and developing these standards and will also ensure that these evolve to meet the changing needs of the market. It is noted that the proposed minimum standards, only provide general guidelines which licensed operators should adopt and do not prescribe specific details and processes.

1.1 Structure of the Document

The remainder of this document comprises the following:

Section 2 provides an overview of the proposed minimum standards for managing inter-operator issues.

Section 3 covers the reciprocal arrangements required amongst licensed postal operators.

Section 4 provides an overview of the proposed enforcement measures and a mechanism for dealing with complaints and dispute resolution.

Section 5 provides further details about responding to this consultation.

In addition, **Appendix A** includes the proposed draft minimum standards for the management of common operational issues in a multi-operator environment and **Appendix B** includes an overview of how other countries treat the sharing of mail redirection information between postal operators.

⁹ Mail integrity and security are of utmost importance in the conveyance of mail because it involves handling of personal and corporate mail items throughout the entire value chain from collection to delivery. Refer to the MCA's Decision Notice on the minimum standards for protecting the integrity of mail - <http://www.mca.org.mt/filesystem/pushfile.asp?id=831&source=3&pin=>.

¹⁰ Maltapost currently has exclusive rights to provide postal services within the reserved area with a network allowing the delivery of postal articles to all addresses in Malta six (6) days a week and uses the network to convey mail on special conditions and for regulated tariffs.

2. Proposed Minimum Standards

This section provides an overview of the proposed minimum standards for the management of common operational issues in a multi-operator environment, thereby ensuring prompt handling and delivery of postal articles.

2.1 Postal Identifier

A postal identifier mark can be said to be the backbone of any arrangement for managing postal inter-operator issues. A postal identifier mark ensures that there is accountability during the entire chain of conveyance, and enables both postal operators and mail recipients¹¹ to trace and identify the operator tasked with handling the postal articles.

The Postal Services (General) Regulations (the Regulations)¹² define a postal identifier as:

'any postage stamp, postmark or impression that is unique to each postal operator and which satisfies the following:

- (a) it is affixed to, or impressed on, or printed on postal articles;
- (b) it exclusively identifies the postal operator; and
- (c) it clearly indicates to members of the public that those postal articles have been or are intended to be, accepted by that postal operator for the purpose of being conveyed by post.¹³

Regulation 62A stipulates that a postal operator shall on accepting a postal article for conveyance by post and prior to conveying the postal article, impress or print on the postal article its postal identifier. Moreover, a postal operator which provides services within the scope of the universal service shall ensure that a postal article carried by him is marked with a postmark which indicates the date when it was delivered into the care of the said postal operator.

Proposed Minimum Requirements

In addition to the provisions already found in legislation, the MCA is proposing the inclusion of the following additional provisions in the minimum standards:

- Postal operators must register their postal identifier mark with the MCA. The MCA will publish the postal identifiers on its website for public information. In addition, postal operators must publish their postal identifier mark for public information.

¹¹ "Recipient" in relation to a postal article, means a party who is the addressee of the postal article.

¹² Refer to Legal Notice 28 of 2009 (on-line) : www.doi.gov.mt/EN/legalnotices/2009/01/LN%2028.pdf

¹³ See Postal Services (General) Regulations, reg, 2 thereof.

- The postal identifier mark must be clear and legible to enable end-users and postal operators to identify the postal operator which has handled the postal articles in the process of conveyance.

Views and Comments

The MCA welcomes views and comments on the proposed provisions regarding postal identifiers and on any other issues that need to be addressed.

2.2 Access to the Postal Infrastructure and Services

Access to elements of the postal infrastructure and services is considered as an important step towards creating a more competitive environment. It is important that the postal infrastructure and services of any licensed postal operator does not in itself represent an obstacle for new postal operators entering the market.

Directive 2008/06/EC highlights that 'consumer interests would also be furthered through the enhanced inter-operability between operators resulting from access to certain elements of infrastructure and services.' Article 11(a) of this Directive states that 'Member States shall ensure that transparent, non discriminatory access conditions are available to elements of the postal infrastructure or services provided within the scope of the universal service, such as postcode system, address database, post office boxes, delivery boxes, information on change of address, re-direction service and return to sender service.'

Regulation 67 of the Regulations stipulates that 'postal operators shall have a right and, when requested by other postal operators, an obligation to negotiate access with each other for the purpose of providing postal services.' The same article also specifies that the 'Authority may issue directives to the USP requiring it to meet reasonable requests for access to, and use of, specific elements of the public postal network in situations where the Authority considers that denial of access, or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market or would not be in the interest of the end-user.'

The proposals set forth by the MCA tackle three aspects dealing with access to elements of postal infrastructure and services that would minimise postal operator and consumer confusion in a multi-operator environment, thereby ensuring prompt handling and delivery of postal articles. These include the: (1) sharing of postcode information; (2) sharing of redirection information; and (3) access to post office delivery boxes.

2.2.1 Sharing of Postcode Information

Postcodes are important not only to ensure that the postal article can be delivered to the person for which it is intended, but also in ensuring the quality of service in terms of timely delivery. This is because as a unique, universal identifier, it unambiguously identifies the addressee's locality and facilitates the nation-wide conveyance and efficient sorting of postal articles and reduces the number of misdelivered postal articles.

The Regulations state that 'the USP shall submit to the MCA updated lists of postcodes and shall publish them in a manner that ensures reasonable publicity including but not

limited to affixation on the notice board of each of its post offices.¹⁴ Maltapost as the designated USP can therefore be considered as the custodian and originator of a nation-wide postcode system.

The MCA is of the opinion that in a liberalised environment access to postcode information may be required by other postal operators to deliver postal articles.

Proposed Minimum Requirements

In view of Maltapost's role as the designated USP and the fact that it is not deemed efficient or effective to have more than one postal operator managing a postcode system, the MCA is of the opinion that Maltapost as the designated USP should be responsible for the provision and administration of a nation-wide postcode system and offer to share the use of the postcode information (i.e. the combination of addresses and postcodes) with other licensed postal operators at prices, terms and conditions that are reasonable, objective, justifiable, transparent and non-discriminatory.

Views and Comments

The MCA welcomes views and comments on whether access to Maltapost's postcode information by other postal operators will be important for mail delivery in a liberalised environment.

The MCA welcomes views and comments on access to Maltapost's postcode information by other postal operators.

2.2.2 Sharing of Redirection Information

The mail redirection service allows a user who has moved to a new address to continue receiving mail, bearing the previous address, for a period of time. In line with Regulation 23(c) of the Regulations, Maltapost as the USP is obliged to provide a mail redirection service.¹⁵ This however does not impede other licensed postal operators from offering a mail redirection service.

In a multi-operator environment, it would no longer be sufficient for mail recipients to request mail redirection services from Maltapost alone because mail delivered by other postal operators will continue to be delivered to the previous address, unless mail recipients inform alternative operators individually. However, it would be inconvenient for recipients to have to inform all postal operators in order to have their postal articles effectively redirected.

In Malta, a cost effective system needs to be put in place to ensure that all postal articles, regardless of which postal operator is delivering the mail, reach the recipient who has registered for a mail redirection service with any one postal operator.

¹⁴ Refer Regulation 15(2) of the Postal Services (General) Regulations.

¹⁵ Refer to Maltapost's Redirection of Mail Postal Scheme - <http://www.maltapost.com/page.asp?p=9472&l=1>. All mail handled by Maltapost is subject to redirection. Redirections are an important part of the universal services as many items of mail are of vital importance to the recipients - hospital appointments, details job interviews, exam results and legal papers are all routinely sent by post.

To this end the MCA is proposing the following minimum requirements after considering practices adopted in other countries (refer to **Appendix B**).

Proposed Minimum Requirements

The MCA is proposing that all licensed postal operators offering mail redirection services must make available at no cost to other licensed operators offering mail redirection, information on the redirected addresses of its customers upon request, provided that consent has been given by the customer to share such information.¹⁶

As postal operators offering mail redirection services would already be recovering their costs directly from their customers and redirection notification will be reciprocal among operators, the MCA considers that there is no basis to impose any additional charge for sharing the information with other licensees.¹⁷

The MCA notes that licensed postal operators other than Maltapost, as the designated USP, will not be required to provide a redirection mail service.¹⁸ However, if they do choose to access redirection information then they must offer a redirection service for all mail (except for mail exempt from redirection under legislation).

In order to inform consumers, postal operators offering or wishing to offer mail redirection services should also clarify to their customers the limitation of the service – for example, it does not guarantee that mail delivered by other postal operators not offering a mail redirection service would be redirected to the new address.

Views and Comments

The MCA welcomes views and comments on the proposed provisions regarding the sharing of mail redirection information.

The MCA also welcomes proposals on alternative arrangements that could address this issue more effectively.

2.2.3 Access to Private Delivery Boxes

A Private Delivery Box, or as more commonly referred to, a Post Office (PO) Box, is a uniquely addressable lockable box located on the premises of a postal operator. In the Regulations this is defined as a 'box installed in a post office and in which postal articles other than parcels, are placed to await collection by that box-holder or by his authorised agent.' Paragraph (h) of Regulation 23 states that Maltapost as the USP is obliged to provide private delivery boxes. However, this does not impede other licensed postal operators from offering this type of service.

If a postal operator denies another postal operator access to its PO boxes, the latter will not be able to offer a ubiquitous service, which may place it at a disadvantage relative to the former. Moreover, many customers will be reluctant to change their PO Box address (e.g. due to the costs of notifying their customers) and new postal operators will have

¹⁶ It is noted that under the Data Protection Act (Cap 440) anyone processing personal data must ensure that the data protection principles are complied with and that personal data is processed fairly and lawfully.

¹⁷ This should be treated as part of the mail redirection service paid for by the subscribing customer.

¹⁸ The set-up costs for the provision of a redirection service could act as a barrier to entry.

difficulty attracting a customer's incoming mail business. This will also create undue inconvenience to the consumers. Consumers will not be able to get a one-stop shop service as they would have to sort their outgoing mail depending on the postal operator which manages a particular PO Box.

Proposed Minimum Requirements

The MCA is of the opinion that access to PO boxes offered by licensed postal operators is necessary for the completion of mail delivery in a multi-operator environment, thereby ensuring a seamless and transparent experience to mail recipients.

The MCA is proposing that any postal operator operating PO Boxes shall allow other operators access to its PO boxes for the deposit of postal articles on reasonable, objective, justifiable, transparent and non-discriminatory grounds.¹⁹ These criteria must also be applied in the setting of any tariffs, if applicable, which must be based on the incremental cost of providing such access.²⁰

Views and Comments

The MCA welcomes views and comments on the proposed provisions regarding access to private delivery boxes.

2.3 Operational Issues

Within a multi-operator environment complexities may arise due to the (unintended) operational cross-over between different, competing, postal networks which could lead to a number of operational issues. This requires an effective and efficient set of procedures to effectively deal with the issues in order to ensure that postal articles are delivered in a timely and safe manner.

The issues that arise relate mainly to identifying, extracting and 'repatriating' postal articles that have entered the incorrect postal network and not the network of the postal operator which is responsible for the postal article.²¹ Most of the issues that are generally identified are linked to each other and many are very similar in cause or solution.

2.3.1 Misdirected Postal Articles

'Misdirected postal articles' refer to postal articles which have entered the postal facilities of a postal operator which is not the intended postal operator due to the postal articles being reposted ('reposted postal articles') or misposted ('misposted postal articles').

¹⁹ For example, a postal operator operating PO Boxes must provide the requesting operator the address and location details for 'handing off' postal articles for delivery to PO Boxes, the terms and conditions for access to PO Boxes, the times at which the postal operator will accept postal articles, any conditions regarding the postal articles (e.g. pre sorting requirements), the delivery standard.

²⁰ These are costs associated with additional operational activities that arise as a direct result of the postal operator having to provide access (e.g. handling of postal articles). For example this must take into consideration, if applicable, the cost of sorting and delivering of mail items to the relevant PO boxes.

²¹ Including misposted and reposted (gone away, forwarded, misdelivered etc) and referred to together as "misdirected postal articles".

'Reposted postal articles' is the term used to describe postal articles that have been delivered by a postal operator but then 'reposted' into the incorrect network by the recipient of the item. The recipient could be re-posting the item for several reasons:

- **Forwarded:** affixing the new address of the addressee where the addressee has changed address;
- **Gone away:** where the addressee no longer resides at that address;
- **Unwanted:** where the addressee does not wish to receive the mail item;
- **Misdelivered:** where the mail item is correctly addressed but has been delivered to the incorrect address.

These categories of 'reposted postal articles' are grouped together because they all relate to postal articles that have been delivered by a postal operator, but for some reason, have re-entered the postal system.

'Misposted postal articles' refer to postal articles that, due to a sender error, have entered the postal facilities of a postal operator which is not the intended operator.

Proposed Minimum Requirements

The MCA is proposing identical arrangements for handling misposted and reposted postal articles, collectively referred to as misdirected postal articles.

To ensure that mail is not unduly delayed and that a recipient postal operator is not inconvenienced in having to store other operators' postal articles, the MCA is proposing that a postal operator notifies the intended postal operator, before noon on the day following identification of the postal article/s, that it is in possession of misdirected postal articles.

The recipient postal operator should make available for collection at least twice weekly to the intended operator the mail that has been misposted or reposted into its network, free of charge. The MCA believes that this would not place any unreasonable burden on the operator that receives the misdirected postal articles and would also help to minimise any undue delay in delivery as a consequence of the misdirection.

Unless otherwise agreed between the parties, the intended operator must collect the misdirected postal articles from the recipient operator as soon as reasonably practicable during the specified collection times and ensure that the misdirected postal articles are delivered in a timely manner.

If the intended postal operator fails to collect the misdirected mail on the appropriate day, and no alternative arrangements are in place, the recipient operator should arrange for the misdirected mail to be returned to the intended operator and the recipient operator should be entitled to recover its reasonable costs associated with doing so.

Views and Comments

The MCA welcomes views and comments on the proposed provisions for handling misdirected postal articles.

2.3.2 Miscollected Postal Articles

'Miscollected postal articles' refer to postal articles which have been collected in error by a postal operator which is not the intended operator (when collecting postal articles, Operator A may accidentally collect letters meant for Operator B).

This problem relates mainly to the collection of bags, or other containers, rather than individual items. In this case the MCA is of the opinion that the fault is to be attributed to the miscollecting postal operator and not to the sender or the postal operator responsible for those postal articles.

Although the occurrence of miscollected postal articles is unlikely to happen the MCA is of the opinion that such a framework would not be complete without introducing a minimum standard to remedy such a situation.

Proposed Minimum Requirements

The MCA proposes that a postal operator which miscollects postal articles (miscollecting operator) must promptly return all miscollected postal articles to the relevant operator for which such miscollected postal articles are intended by the next working day, or at the latest, on the next working day this mistake was subsequently discovered by the miscollecting operator. The MCA is proposing that the miscollecting operator shall bear its own costs in doing so.

Views and Comments

The MCA welcomes views and comments on the proposed provisions for handling miscollected postal articles.

2.3.3 Misdirected Customer Service Enquiries

'Misdirected enquiries' are complaints or enquiries received by a postal operator in respect of postal articles for which it is not the intended postal operator. As misdirected customer service enquiries relate by definition to a situation where a receiving customer (it is expected posting customers will contact the correct postal operator) is confused or concerned about the service they have, it is important that they are not further inconvenienced by problems with the interface between different operators.

Proposed Minimum Requirements

The MCA is proposing that the postal operator receiving the complaint identifies as soon as practically possible the misdirected customer service enquiry. This should be done by first asking the customer to establish certain facts such as the type of postal article received and the operator which has distributed the postal item. The latter would be identified from the postal identifier on the postal article.

The MCA is also proposing that the postal operator will then advise the consumer that they are unable to help and then provide the contact telephone number for the intended postal operator. A similar process should be put in place to ensure that queries or complaints made by email, fax or letter are redirected as quickly and efficiently as possible with the minimum level of inconvenience to the customer.

The MCA is also proposing the inclusion of a provision whereby if the identity of the postal operator cannot be discerned from the postal identifier the operator would only be required to refer the complainant to the sender of the postal article.

Moreover the MCA is proposing that the licensed postal operator should have sufficient personnel properly trained (and with access to all the relevant information) in order to handle complaints or other enquiries in accordance with the process being proposed.

Views and Comments

The MCA welcomes views and comments on the proposed provisions for handling misdirected customer service enquires.

3. Reciprocal Arrangements among Postal Operators

The proposed minimum standards only provide general guidelines which licensed postal operators should adopt and do not prescribe specific details and processes. The MCA would expect licensed postal operators to commercially negotiate and enter into reciprocal arrangements and specify the detail and processes to reflect these guidelines. Where licensed postal operators fail to reach agreement, they can approach the MCA for dispute resolution on matters relating to the minimum standards issued, in accordance with the laws administered by the MCA (refer to **Section 4**).

As already stated in the introduction to this consultation, the MCA intends to require Maltapost as the incumbent USP to propose a Reference Offer ('RO'). The MCA is of the opinion that by requiring Maltapost to provide a RO would avoid undue delays in commercial negotiations between competing licensed postal operators and Maltapost. The RO would be a standard offer that would set out the processes and arrangements that Maltapost would commit to adopting to address the common inter-operator issues between Maltapost and other licensed postal operators. The agreement should be on a reciprocity basis (i.e. governing both Maltapost and other postal operators).

Maltapost will be required to submit the proposed RO to the MCA for approval and the MCA will conduct a public consultation on the proposed agreement. Upon approval by the MCA, Maltapost will be required to publish its RO in the manner as required by the MCA and obtain MCA's prior approval for any modification to its RO.

The RO should contain details, such as, but not limited to: (1) terms and conditions on which postal code information will be shared and how; (2) address or location details for hand-over/collection of mail; (3) procedures for hand-over/collection of mail (i.e. hours, integrity and security of mail, procedures, etc); and related tariffs (if any, and if justified).

As for other licensed postal operators, the MCA believes that they should have the necessary incentives to negotiate and agree on the most efficient arrangements among themselves. Otherwise, Maltapost's RO could be used as the benchmark for other operators. The MCA will not intervene in commercial negotiations among new entrants so long as the arrangements comply with the guidelines set out under the proposed minimum standards.

Views and Comments

The MCA welcomes views and comments on the reciprocal arrangements to be reached among licensed postal operators and on the proposal to require Maltapost as the incumbent designated USP to provide a Reference Offer.

4. Enforcement, Dispute Resolution and Information

This section provides an overview of the proposed enforcement action against non-compliance with the minimum standards and a mechanism for dealing with complaints and disputes.

4.1 Enforcement Measures

In the event that the MCA concludes that a licensed postal operator has contravened any provision of these minimum standards, the MCA may take such enforcement measures as it considers appropriate in line with the applicable postal services legislation. This may also include the imposition of administrative fines. A breach of the proposed minimum standards would constitute a breach to the conditions of the authorisation and the MCA will assess the appropriate action to take in accordance with the applicable legislation.

4.2 Complaints and Dispute Resolution

The MCA is proposing that any aggrieved operator may refer any complaint or dispute in relation to any provisions of these minimum standards to the MCA for final determination in line with the MCA's Guidelines for Inter-Operator Complaints, Disputes and Own Initiative Investigations.²²

4.3 Information and Reporting

The MCA is proposing that within three (3) months commencing from the 1st January of each year each licensed postal operator must provide the details of the total number of misdirected postal articles in respect of which that postal operator was the receiving operator during the relevant year.

Views and Comments

The MCA welcomes views and comments on the proposed approach:

- to enforce the minimum standards;
- for dealing with inter-operator complaints and disputes; and
- for the reporting of information.

²² MCA (2008), MCA Guidelines for Inter-Operator Complaints, Disputes & Own Initiative Investigations (online) : <http://www.mca.org.mt/newsroom/openarticle.asp?id=674&source=2>

5. Submission of Comments

The consultation period will run from the **19th August 2009** to the **16th September 2009**, during which the MCA welcomes written comments on any of the issues raised in this consultation document.

Having analysed and considered the views and comments received, the MCA will review the proposals with respect to the minimum standards for managing inter-operator issues and publish its decision that will, inter alia, summarise the responses to the consultation. Licensed postal operators will be required to ensure that their policies and procedures for dealing with common operational issues meet or exceed the established minimum standards.

Receipt of comments will be acknowledged. Comments will be made publicly available by the MCA and on the MCA's website unless declared confidential.²³ Respondents are therefore asked to separate out any confidential material into a clearly marked annex.

Respondents are also kindly requested to preferably refer their views and comments to the specific sections of this document when making their submissions.

All responses to this consultation should be clearly marked "**Postal Sector - Managing Common Operational Issues in a Multi-Operator Environment**" and sent by post, facsimile or e-mail to:

**Chief Policy and Planning
Malta Communications Authority
Valletta Waterfront
Valletta FRN1913, Malta**

**Tel: +356 21 336840
Fax: +356 21 336846
Email: postal@mca.org.mt**

²³ In accordance with the MCA's confidentiality guidelines and procedures – (refer to www.mca.org.mt)

Appendix A - Proposed Draft Minimum Standards

In exercise of the powers conferred by Article 76A of the Postal Services Act, the Malta Communications Authority (MCA) hereby issues the following minimum standards for managing postal inter-operator issues:

1 Preliminary

1.1 Citation and Commencement

1.1.1 These Standards may be cited as the **Minimum Standards for Managing Inter-Operator Issues (2009)** and shall come into force on _____.

1.2 Interpretation

“Act” means the Postal Services Act (Cap. 254).

“Regulations” means the Postal Services (General) Regulations (Subsidiary Legislation 254.01).

“Article of correspondence” has the meaning ascribed to it in the Act.

“Licensee” means any entity granted a licence to operate services within the scope of the universal service.

“MCA” means the Malta Communications Authority.

“Miscollected postal article” is a postal article which has been collected in error by a Licensee which is not the intended Licensee.

“Misdirected postal article” is a postal article that has entered the postal facilities of a licensee which is not the intended operator due to mail being reposted or misposted.

“Misposted postal article” refers to a postal article that, due to a sender error, has entered the postal facilities of a postal operator which is not the intended operator

“Postcode” means a unique, universal identifier, which unambiguously identifies the addressee’s locality and assists in the transmission and sorting of mail items.

“Postal Services” has the meaning ascribed to it in the Act.

“Postal Article” has the meaning ascribed to it in the Act.

“Postal Identifier” has the meaning ascribed to it in the Regulations.

“Private Delivery Box” or “Post Office Box” shall mean a box installed in a post office and in which postal articles, other than parcels, are placed to await collection by that box holder or by his authorised agent.

“Recipient” in relation to a postal article, means a party who is the addressee of the postal article.

“Redirection Service” means a service provided by a Licensee which allows a Recipient who has moved to a new address to continue to receive postal articles bearing the previous address, for a period of time as subscribed.

“Redirection Information” means the redirected address of any Recipient who has requested for the redirection service and who has granted consent to the Licensee to share this information with other Licensees who request it.

A “Reference Offer” is a standardised offer for access, made by a mandated Licensee to provide mandated services to a requesting Licensee.

“Reposted postal article” means a postal article that has been delivered by a licensee but then reposted into the incorrect network by the recipient of the item.

“Sender” in relation to a postal article, means a party whose communication it originates from.

1.2.1 A reference in these minimum Standards to a “section”, shall, unless otherwise stated, be construed as a reference to the corresponding section in these minimum standards and shall include all sub-sections within that section.

1.3 Purpose

1.3.1 These minimum standards set the duties and obligations relating to common inter-operator issues for licensed postal operators (i.e. postal operators operating services falling within the scope of the universal service). To this end these standards aim to promote the following objectives:

- a) furthering the interests of users of the Postal Services; and
- b) promoting the efficient conduct and inter-operability between Licensees so as to ensure that postal articles are delivered in a timely and efficient manner.

1.3.2 Every Licensee is required to comply with these minimum standards in accordance with Article 76A of the Act. In particular, every Licensee must establish reciprocal arrangements with other Licensees to address the requirements specified in sections 4 to 7.

1.3.3 Without prejudice to section 1.3.2, the MCA will require Maltapost Plc as the designated universal service provider to adopt a Reference Offer that specifies the applicable prices, terms and conditions on which it will offer: (a) to share postal code information under Section 3; and (b) to establish reciprocal arrangements with other Licensees to address the requirements specified in sections 4 to 7. Within 90 days of being notified to do so by the MCA, Maltapost Plc must submit its proposed reference offer to the MCA for approval and the MCA may seek public comments. Upon approval by the MCA, Maltapost Plc must publish its reference offer in the manner as required by the MCA and obtain MCA’s prior approval for any modification to its reference offer. The MCA may from time to time by notice

to Maltapost Plc specify additional requirements that must be adopted in the Reference Offer.

- 1.3.4 The obligations contained in the minimum standards are in addition to those contained in the Act, as well as other regulations, licences or decisions issued by the MCA.
- 1.3.5 If any provision of the minimum standards is held to be unlawful, all other provisions will remain in full force and effect.

1.4 Variation, revocation, exemption etc.

- 1.4.1 The MCA may at any time review, add to, vary or revoke these minimum standards.
- 1.4.2 The MCA may exempt any Licensee from all or any of the provisions of these minimum standards. A Licensee that wishes to be exempted from any of these minimum standards shall submit a written request to the MCA containing the reasons supporting the request. Any exemptions shall be subject to such terms and conditions as the MCA may specify and may, without limitation, be on a one-time basis, temporary, permanent, for a fixed period or effective until the occurrence of a specific event. The MCA may provide an opportunity for public comments before granting or denying any request.

2 Postal Identifier Mark

- 2.1 Every Licensee must have a postal identifier mark as specified in Regulation 62 of the Regulations. The Postal Identifier mark must be easily identifiable as the mark belonging to the relevant Licensee.
- 2.2 Every Licensee must ensure that the Postal Identifier mark, together with a date stamp, is clearly and legibly marked on each postal article that it handles for the purpose of it being conveyed by post.
- 2.3 Every Licensee must register its postal identifier mark with the MCA. The MCA will publish the postal identifiers on its website for public information. In addition, every licensee must publish their postal identifier mark for public information.

3 Sharing of Postcode Information

- 3.1 In line with Article 15(2) of the Act, Maltapost Plc as the incumbent universal service provider shall maintain and update a list of postcodes.
- 3.2 Maltapost Plc must offer to share the use of the postcode information (namely the combination of addresses and postcodes), with any Licensee on/for reasonable, objectively justifiable, transparent and non-discriminatory conditions and tariffs.

4 Sharing of Redirection Information

- 4.1** Any Licensee that offers a mail Redirection Service must, upon reasonable request, make available in a timely manner to other Licensees the redirected address of any Recipient, who has requested for the mail Redirection Service ('Redirection Information'), provided that consent has been granted by the Recipient to share the Redirection Information with other Licensees. In this respect, the Licensee providing the mail Redirection Service must make it known to such Recipients that unless the Recipient expressly opts out, the Licensee may share the Redirection Information with other Licensees, which are also offering Redirection Services, for the purposes as permitted by the Recipient.
- 4.2** Any Licensee that obtains the Redirection Information of any Recipient must not use such information for any purposes other than as permitted by the Recipient.
- 4.3** The Licensee providing the Redirection Service must not charge other Licensees for the Redirection Information. Instead, the Licensee may only recover costs from Recipients who request for the Redirection Service.
- 4.4** Any Licensee which chooses to access Redirection Information must offer a redirection service for all mail (except for mail exempt from redirection under legislation).

5 Private Delivery Boxes (Post Office Boxes)

- 5.1** Any Licensee that operates Private Delivery Boxes (Post Office Boxes) shall allow other Licensees access to its Post Office Boxes on/for reasonable, objectively justifiable, transparent, and non-discriminatory conditions and tariffs. Any tariffs, if applicable, must be based on the incremental cost of providing such access.

6 Misdirected Postal Articles

- 6.1** In the event that any licensee ("Recipient Licensee") receives Misdirected postal articles due to them being reposted or misposted into the Recipient Licensee's network, the Recipient Licensee shall inform the Licensee for which the Misdirected postal articles are intended ("Intended Licensee") before noon on the day following identification of the postal article/s. It shall also make available the Misdirected postal articles, at a minimum, twice a week for collection by the Intended Licensee. The Recipient Licensee shall bear its own costs in doing so.
- 6.2** Unless otherwise agreed between the parties, the Intended Licensee must collect the Misdirected postal articles from the Recipient Licensee as soon as reasonable practicable during the specified collection times and ensure that the Misdirected Letters are delivered in a timely manner. The Intended Licensee shall bear its own costs in doing so.
- 6.3** If the Intended Licensee fails to collect the misdirected postal articles on the appropriate day, and no alternative arrangements are in place, the Recipient Licensee should arrange for the reposted or misposted postal articles to be returned to the Intended Licensee and the Recipient Licensee should be entitled

to recover its reasonable costs associated with doing so. The Intended Licensee must ensure that the Misdirected Letters are delivered in a timely manner.

7 Miscollected Postal Articles

- 7.1** A Licensee which miscollects postal articles (“Miscollecting Licensee”) must promptly return all miscollected postal articles to the relevant Licensee for which such miscollected postal articles are intended for (“Intended Licensee”) by the next working day, or at the latest, on the next working day the mistake was subsequently discovered by the Miscollecting Licensee. The Miscollecting Licensee shall bear its own costs in doing so.
- 7.2** Unless otherwise agreed between the Licensees, the Miscollecting Licensee must return at its own costs the miscollected postal articles to the Intended Licensee’s sorting facility that is notified to the Miscollecting Licensee for such purpose.
- 7.3** Upon receipt of the miscollected postal articles, the Intended Licensee must ensure that the miscollected postal articles are delivered in a timely manner.

8 Misdirected Customer Service Enquiries

- 8.1** If a Licensee receives a complaint or other enquiry that should have been directed to another Licensee, the Licensee receiving the complaint or other enquiry shall:
- a) Treat that complaint or other enquiry with the same degree of care and importance that it would if the complaint or other enquiry should have been made to that Licensee;
 - b) Explain to the complainant that he/she should contact the other relevant Licensee; and
 - c) Provide to the complainant the contact details of the other relevant Licensee.
- 8.3** If a Licensee receives a complaint or other enquiry where the identity of the Licensee to which that complaint or other enquiry should have been made is not discernable from the relevant postal article, the Licensee receiving the complaint or other enquiry is only required to refer the complainant to the Sender of the postal article.
- 8.4** Licensees must take all reasonable steps to ensure that they have sufficient personnel properly trained (and with access to all relevant information) in order to handle complaints or other enquiries in accordance with the other provisions of this section.

9 Enforcement and Dispute Resolution

- 9.1** In the event that the MCA concludes that a Licensee has contravened any provision of these minimum standards, the MCA may take such enforcement measures as it considers appropriate in line with its powers at law. This may also include the imposition of administrative fines.

- 9.2** A breach of the proposed minimum standards would constitute a breach to the conditions of the licence and the MCA will assess the appropriate action to take in accordance with its powers at law.
- 9.3** The MCA will consider and, where appropriate, commence an investigation against a Licensee where the MCA receives a complaint from any person alleging contravention of these minimum standards by the Licensee in line with the guidelines that the MCA may from time to time issue concerning inter-operator disputes and/or complaints.²⁴
- 9.4** The MCA may, on its own motion, commence an investigation against a Licensee where there appears to be a contravention of these minimum standards by such Licensee.
- 9.5** Where Licensees fail to voluntarily reach an agreement regarding any dispute in relation to the requirements of the minimum standards, any of the Licensees involved in the dispute may request the MCA to resolve the dispute.
- 9.6** The party submitting any such complaint or dispute for determination to the MCA, shall under pain of nullity, act in accordance with guidelines that the MCA may from time to time issue concerning inter-operator disputes and/or complaints.
- 9.7** Any final determination by the MCA of any such complaint or dispute as may be referred to it in accordance with these standards, shall be without prejudice to the right of any party to the complaint or dispute to contest the final determination of the MCA.

10 Information and Reporting

- 10.1** Within three (3) months commencing from 1st January of each year, each Licensee must provide the MCA with details of:
- a) the total number of Misdirected Postal Articles in respect of which that Licensee was the receiving operator during the relevant year ending 31st December; and
 - b) where relevant, the total number broken down by intended operator.
- 10.2** Licensees must supply to the MCA:
- a) their correct and up-to-date customer services contact details; and
 - b) any other information in relation to the subject matter of these minimum standards as the MCA may require.

²⁴ MCA (2008), MCA Guidelines for Inter-Operator Complaints & Own Initiative Investigations (on-line) : <http://www.mca.org.mt/newsroom/openarticle.asp?id=674&source=2>

Appendix B – Mail Redirection Information (Overseas Jurisdictions)

In Sweden, Sweden Post/Posten (the incumbent) and City Mail (its largest competitor) formed a joint venture company to develop and manage a redirection database so as to provide seamless delivery of redirected mail. The information is available to all postal operators that enter into an agreement with the joint venture company. The revenue from the redirections service is shared in proportion to the volumes delivered by each operator. Legislation requires that redirections data is shared with all licensed operators wishing to provide a redirections service and in addition the provision of a redirections service is mandatory. Licensees only receive redirections data based on the areas in which they deliver.

In Germany, postal service providers are allowed to access the database of address changes maintained by the incumbent Deutsche Post, for a fee that is approved by the regulator.

In Singapore any licensee offering mail redirection services must make available, at no cost, to other licensees, information on the redirected addresses of its customers upon request, provided that consent has been given by the customer to share such information.

In the Netherlands the redirections services is not considered a universal service. Under Dutch law any postal operator operating or managing a system containing address data relating to change-of-address details of an addressee shall make the data used for effective conveyance of postal articles in the said system available to other licensed postal operators within a reasonable period, and on/for reasonable, objectively justifiable, transparent and non-discriminatory conditions and tariffs.

In the UK, Postcomm (the NRA) is recommending that Royal Mail be required to share redirections data with other licensed operators which wish to provide redirection services. Redirection services offered by other licensed operators will continue to be optional, given the fact that there will be some set-up costs involved, with the potential for these costs to become a barrier to entry. However, once an operator chooses to access redirections data, it must provide a redirections service for its area of operation. Postcomm is also proposing to adopt an approach whereby the price of redirection is restructured. The price of the redirections will be reduced to cover the reasonable administration costs Royal Mail incurs as the sole retailer of the product, plus an operational profit consistent with that allowed under the price control of around 12%. The operational costs of redirecting mail may then be recovered from sending customers by all operators.