



MALTA COMMUNICATIONS AUTHORITY

STANDARD AND ITEMISED BILLING

Decision and Response to Consultation

Decision Document

MCA/D/16-2535

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EXECUTIVE SUMMARY

In accordance with the Electronic Communications Networks and Services (General) Regulations¹ (hereafter ‘the ECNSR’), the Malta Communications Authority (hereafter ‘the Authority’ and/or ‘the MCA’) is responsible to ensure that subscribers are able to verify and control the charges they incur in relation to electronic communications services (hereafter ‘ECS’). In general this is achieved by means of a bill provided by their service provider.

Currently, the majority of ECS providers allow their post-paid subscribers to access their bills electronically through the internet (hereafter ‘e-Billing’). Whilst the MCA appreciates that such an e-billing method is beneficial from a cost and an environmental perspective, it is also aware that a number of subscribers may not have access to the internet. Some service providers require these subscribers to pay a small charge in order to receive their bills in a hard copy format.

A consultation document was published on the 17th September 2015 to seek feedback from interested stakeholders on a set of proposed measures intended to ensure that all subscribers are able to receive their bills in a medium they can access free of charge.

Following the public consultation which ran to the 23rd October 2015, the MCA received feedback from four entities namely the Consumer Association (hereinafter referred to as “CA”), GO plc (hereinafter referred to as “GO”), Melita plc (hereinafter referred to as “Melita”) and Vodafone Malta Limited (hereinafter referred to as “Vodafone”). The MCA also received submissions from three individuals. The feedback and submissions received, together with MCA’s reactions are integrated in this decision.

For ease of reference, the Authority will include in this decision some of the provisions established in MCA’s decision entitled ‘Itemised Billing’ published on the 3rd of January 2014, including some minor amendments as outlined in this document which is also treating the different types of billing methods available. Hence, the MCA is replacing the 2014 decision and integrating that decision with this final decision.

The Authority supports any additional pro-consumer measures adopted by service providers which complement MCA’s requirements contained in this decision, as long as they are provided in accordance with other legal provisions and/or decisions published by the MCA or by other competent regulatory bodies.

The revised obligations shall come into effect as from the 1st of July 2016.

¹ Subsidiary Legislation 399.28 of the Laws of Malta

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1. INTRODUCTION

Enabling post-paid subscribers to access their ECS related bills is a fundamental requirement. The evolution in information and communications technologies during the past years gave rise to new trends in relation to subscriber billing, including the introduction of web portals providing subscribers the possibility to access their bills electronically. As a result, a number of ECS providers are applying a charge to subscribers opting to receive their bills in a hard copy format.

In view of this development, the MCA is replacing its decision entitled 'Itemised Billing' published on the 3rd of January 2014 with this decision. Post-paid ECS subscribers shall be entitled to receive standard bills, and in the case of telephony they shall also be entitled to an itemised bill free of charge, either electronically or by means of a hard copy where it results that they do not have an internet connection.

Pre-paid telephony subscribers shall be provided with the possibility to view a copy of their detailed usage report.

In the context of this document any reference to pre-paid subscribers also includes subscribers on plans containing both post-paid and pre-paid elements often referred to as 'Hybrid' plans within the industry.

2. LEGAL BASIS

One of the objectives of the Authority in the exercise of its functions under Article 4 (1) (c) of the Electronic Communications (Regulation) Act² (hereafter 'ECRA') is that to promote the interests and rights of all users by ensuring a high level of protection for users in their dealings with undertakings. In this respect, the MCA is required to take all reasonable measures which are aimed at achieving this objective.

Regulation 38 (5) of the 'ECNSR' empowers the Authority, subject to the requirements of the applicable legislation on the protection of personal data and privacy, to issue rules on billing to be complied with by undertakings providing connection to a public communications network and, or publicly available electronic communications services in order to ensure that subscribers can:

- i. allow verification and control of the charges incurred; and
- ii. adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills.

Under the Fourth Schedule of the 'ECNSR' the Authority is empowered to lay down the basic level of itemised bills which are to be provided by undertakings to subscribers, upon request and free of charge, in addition to the subscribers' standard bill. The Fourth Schedule of the 'ECNSR' further states that additional levels of detail may be included in subscribers' itemised bills at reasonable tariffs as the Authority may approve.

In line with Article 4A of the Malta Communications Authority Act³ (hereafter the "MCA Act"), in September 2015, the Authority published a consultation document, the purpose of which was, to provide for rules regarding billing to be complied with by undertakings so as to ensure that all subscribers can view their bills through a means that they can access at no additional cost.

The decision published by the Authority does not exempt providers of electronic communications services from complying with any other obligations in accordance with other legal provisions and/or decisions published by the MCA or by other competent bodies.

² Chapter 399 of the Laws of Malta

³ Chapter 418 of the Laws of Malta

3. BILLING TYPES AND BILLING MEDIUMS

In order to enable post-paid subscribers to adequately verify the charges that appear on their bill, it is important that they are presented in a transparent and friendly manner (whether in a hard copy or an electronic format). In this context the Authority encourages all service providers to provide subscribers with bills that are clear, unambiguous and accurate.

ECS providers are required to make available to their post-paid subscribers a standard bill and in the case of telephony an itemised bill upon request by the subscriber.

This section includes an overview of the billing types, namely:

- **Standard Bill;**
- **Basic Itemised Bill; and**
- **Detailed Itemised Bill.**

In the following section the MCA is providing detailed information on each of the above mentioned billing types, any consultation feedback it received, and the final decision.

3.1 STANDARD BILL

A standard bill is a type of bill made available to all post-paid subscribers. As a minimum a standard bill should include information on the types of services or bundles being provided, and total dues for a defined billing period.

As mentioned earlier, currently such subscribers may access their standard bills electronically free of charge, however if they request it in a hard copy format, some service providers are applying a charge. To safeguard the subscribers' right to receive their standard bill in a medium that they can access free of charge, in its consultation the MCA proposed to also require the provision of a standard bill in a hard copy format free of charge to those subscribers who do not have access to the internet.

One of the respondents argued that this proposal goes counter to the current EU and Malta's digital strategy which is to encourage individuals to use Information Communication Technology (ICT) services. The MCA is of the opinion that digital inclusion can be achieved if end-users fully understand the benefits that the increased use of ICTs can bring to their life and not because they are penalised for not being able to access their bills electronically. The same respondent also refers to the EU Digital Agenda Scoreboard 2015 which reports that fixed broadband is available to 100% of Maltese households⁴. This same report also states that as at 2015, 20% of the Maltese households

⁴ <https://ec.europa.eu/digital-single-market/en/scoreboard/malta>

did not subscribe to a fixed broadband connection notwithstanding availability. In this context, MCA's proposals are aimed to address the needs of those end-users who do not have an internet connection, and as a result may currently be required to pay a monthly fee to access their bills.

In its consultative document, the Authority suggested that service providers could only reasonably ensure and verify that their subscribers can access the internet if:

- **one of the services being provided by the same undertaking includes the provision of a fixed internet and /or mobile internet service; or**
- **the subscriber has given his explicit consent to receive and access his bills electronically.**

Some respondents to the consultation commented that end-users may purchase different electronic communications services from different service providers which could create difficulties in verifying whether a subscriber has an internet connection or not because he/she may have an internet subscription with an alternative internet service provider, or under another account with the same service provider. In this context, one of these respondents also stated that in instances where subscribers would have provided an email address in connection to an ECS account (not necessarily an internet account) service providers should be allowed to automatically provide subscribers electronic access to their bills. The MCA is of the opinion that an email address would not automatically denote that the subscriber has an internet connection.

Another respondent proposed that in order to mitigate abuse, when an end-user subscribes to a service which does not include access to the internet, service providers are allowed to request subscribers to sign a declaration stating that they do not have an internet connection. The MCA finds no objection to this however it should be implemented at the discretion of service providers.

In its consultative document, the MCA also proposed that subscribers who have access to the internet should also be entitled to receive the standard bill in a hard copy format, however at a reasonable charge. In this respect, the MCA received feedback stating that the current charges are excessive and that these should be reviewed or abolished. In its consultative document, the MCA took into consideration the fact that service providers incur costs in order to provide and deliver printed bills to subscribers and it is for this reason that the MCA proposed that these charges should only be applied to those subscribers who opt to access their bills in hard copy format notwithstanding the fact that they can access their bills electronically. Having said this, the MCA will continue monitoring any developments in this regard and will take necessary regulatory action should the need arise.

The MCA also proposed that ECS undertakings provide their subscribers with the necessary information on how they may easily access their standard bill electronically and store them for a minimum period of six (6) months. The MCA has not received any submissions on this proposal.

In view of the above considerations, the MCA has decided to retain the decision based on the text found in its consultation.

Decision 1

Electronic communication service post-paid subscribers are entitled to a standard bill for all electronic communication services free of charge by means of a medium they can access. To this effect, subscribers who do not have an internet connection are entitled to receive it in a hard copy format free of charge.

Besides being able to access their standard bill electronically free of charge, subscribers who have an internet connection may also opt to receive it in a hard copy provided that if any charges are applicable these are reasonable.

Upon request, ECS undertakings shall provide their subscribers with any necessary information and assistance on how they may easily access their standard bill electronically. Online systems operated by undertakings shall enable subscribers to retrieve copies of their electronic standard bills for a minimum period of six (6) months.

3.2 ITEMISED BILLS

In the case of electronic communications services, an itemised bill is a type of bill made available to all post-paid subscribers requiring further information on telephony usage other than that included in the standard bill. This will enable them to be in a better position to control and verify their telephony usage during the billing period in question.

The decision entitled 'Itemised Billing' published in January 2014 specifies that subscribers may choose between two types of itemised bills, namely the:

- **Basic Itemised Bill; and**
- **Detailed Itemised Bill.**

In the feedback to the consultation received by the MCA, one of the service providers claimed that it currently cannot make available a hard copy of a 'basic itemised bill' upon request by a subscriber. The same respondent further stated that it has developed an application wherein a subscriber can view a summary of the billing costs and that in the near future this information will also be accessible through the service provider's online portal.

When taking into consideration that the detailed itemised bill includes all the information found in the basic itemised bill, the provision of a basic itemised bill is not any more being considered as an obligation. However, whenever it is technically possible, the MCA encourages ECS providers to provide access to basic itemised bills to their subscribers.

As specified in the consultation, post-paid telephony subscribers are to be entitled to a detailed itemised bill free of charge by means of a medium they can access.

3.2.1 BASIC ITEMISED BILL

In addition to the information provided by the standard bill, the basic itemised bill generally includes a summary of the aggregated costs incurred for each different type of telephony related activity based on its applicable tariff, including any ancillary charges incurred by the subscriber. The aggregated costs incurred for each type of activity are generally reported individually and separate from each other.

As stated earlier the provision of a basic itemised bill is no longer obligatory, however whenever it is technically possible the MCA encourages ECS providers to provide it to their subscribers.

3.2.2 DETAILED ITEMISED BILL

The detailed itemised bill should include usage and cost related information on each telephony related transaction made by the subscriber, such as in the case of each voice call, SMS, MMS and data session he/she used throughout the billing period in question whether as part of a bundled tariff plan or not.

As specified in the Fourth Schedule of the 'ECNSR', calls which are free of charge to the calling subscriber, including calls to helplines, are not to be identified in the calling subscriber's detailed itemised bill for privacy reasons.

MCA's consultative document proposed that ECS service providers, which are in a position to provide access to the detailed itemised bill electronically, shall only be required to provide a hard copy free of charge to those subscribers who do not have access to the internet. Subscribers who are in a position to access their detailed itemised bill electronically, shall still have the right to request a hard copy, however the service provider may provide it at a reasonable charge.

The MCA has not received any submissions on this proposal and has decided to retain the decision based on the text stated in its consultation.

Proposed Decision 2

Fixed and mobile post-paid telephony subscribers are entitled to a detailed itemised bill free of charge by means of a medium they can access. To this effect telephony subscribers who do not have an internet connection are entitled to receive it in a hard copy format free of charge.

Besides being able to access their detailed itemised bill electronically free of charge, telephony subscribers who have an internet connection may also opt to receive it in a hard copy provided that if any charges are applicable these are reasonable.

Upon request ECS undertakings shall provide their subscribers with any necessary information and assistance on how they may easily access their detailed itemised bill electronically. Online systems operated by undertakings shall enable subscribers to retrieve copies of their electronic detailed itemised bills for a minimum period of six (6) months.

3.3 PROVISION OF A REPORT ON PRE-PAID TELEPHONY USAGE

Currently pre-paid fixed and mobile telephony subscribers have the right of requesting a hard copy detailed report on their usage. In addition to this they may also request to view their detailed usage report by visiting any of the undertaking's outlets. In its consultative document, the MCA proposed that these requirements are retained.

The MCA received feedback from a respondent stating that pre-paid subscribers should be provided the possibility to view their itemised bills electronically. During the consultative process leading to MCA's decision entitled 'Itemised Billing' published in 2014, the MCA had reviewed this possible measure and had taken into consideration several aspects, including the fact that pre-paid subscribers are normally provided with different mechanisms that enable them to check their remaining balance in real time.

Since these considerations are still valid, the Authority has decided to retain this requirement as originally stated in its consultation.

Since in the case of pre-paid subscribers, undertakings may have to verify the account holder's identity, before providing (or showing) a copy of the subscriber's report on telephony usage to safeguard his/her privacy, any measures implemented in this regard, must be in accordance with the relevant data protection laws. The Authority requires that undertakings ensure that any such measures are justified and reasonable and that they do not act as a disincentive for subscribers to request a copy of their detailed usage record.

Proposed Decision 3

Fixed and mobile pre-paid telephony subscribers may, upon request, view a copy of their detailed report on usage by visiting any of their undertaking's outlets. Any authentication measures shall take place in accordance with any relevant data protection laws. Undertakings shall ensure that any such measures are justified and reasonable and do not act as a disincentive to pre-paid subscribers from requesting a copy of their detailed usage report.

Besides being able to view a copy of their detailed report on usage free of charge, pre-paid telephony subscribers may also opt to receive it in a hard copy format provided that if any charges are applicable these are reasonable.

4. APPLICABILITY OF DECISION

All the requirements established by MCA's final decision shall come into force on the 1st of July 2016.