

#### MALTA

#### Market developments

##### 1. Competitive environment

There are three major operators in Malta: GO plc, Melita Ltd and Vodafone Malta Ltd.

GO and Melita have a nationwide access network infrastructure and are competing at par in the provision of a whole range of electronic communications services ("ECS"), including fixed and mobile telephony, fixed broadband and pay TV. These services are offered either on a stand-alone basis or as part of a bundle. GO and Melita also target the business sector by offering tailor-made products and solutions, with a line-up ranging from fixed telephony to leased lines.

Vodafone Malta offers a mix of electronic communications services, including mobile telephony, fixed broadband and fixed telephony. In the case of fixed broadband and telephony services, Vodafone only offers bundled subscriptions combining the relevant products. Vodafone does not offer pay TV services.

There are other small-scale service providers that are active in the provision of ECS. Ozone Malta Ltd and Vanilla Telecoms offer several ECS, related to fixed broadband and fixed telephony services only. The coverage of their infrastructure and their commercial presence is however limited to specific locations of the national territory and their market share is also limited.

There are also two active resellers of ECS in Malta. Redtouch Fone is a reseller of mobile telephony services, whilst Space Hellas is a reseller of leased lines. SIS Ltd, which was commercially active in an exclusive private gated community, has ceased operations in the first quarter of the year.

The number of end-users opting for the bundled subscription of electronic communications services has consistently increased year-on-year. Triple-play subscriptions (specifically those including fixed telephony, fixed broadband and pay TV) are the most common in Malta, although dual-play subscriptions combining fixed telephony and fixed broadband are also increasing in popularity. End-users still prefer purchasing mobile telephony on a stand-alone basis, given the personal nature of the service

To date, the Maltese National Regulatory Authority ("MCA") has not regulated bundled offers.

In May 2017, Vodafone Group Plc announced its intention to merge Vodafone Malta Ltd with Melita Ltd, in order to create a fully integrated communications company. The parties cooperated with the Maltese Competition Authority (the "MCCA") in order to obtain approval for the transaction. However, in December 2017 the parties concluded that they were unable to satisfy the MCCA's requirements and consequently decided to terminate the transaction and to withdraw the notification of concentration.

## a. Fixed Markets

Coverage	MT-2016	MT-2017	EU-2017
Fixed broadband coverage (total)	100%	100%	97%
Fixed broadband coverage (rural)	100%	100%	92%
Fixed NGA coverage (total)	100%	100%	80%
Fixed NGA coverage (rural)	100%	100%	47%
Ultrafast coverage (total)	no data	100%	58%
4G coverage (average of operators)	99%	99%	91%

Source: *Broadband Coverage Study (IHS and Point Topic)*. Data as of October 2016 and October 2017.

The broadband sector is one of the most positively performing sectors, with growth recorded across most indicators. The overall number of subscriptions keeps increasing year-on-year, particularly for products offering fast and ultrafast speeds<sup>1</sup>.

Service providers invested significantly over the years in order to roll-out high-speed fixed and wireless broadband networks on a nationwide scale.

Fixed broadband market shares	MT-2016	MT-2017	EU-2017
Incumbent market share in fixed broadband	49.6%	49.1%	40.3%
<b>Technology market shares</b>			
DSL	45.2%	42.5%	64.2%
Cable	48.0%	47.2%	19.4%
FTTH/B	4.4%	6.6%	12.9%
Other	2.3%	3.7%	3.6%

Source: *Communications Committee*. Data as of July 2016 and July 2017.

GO operates a nationwide copper network, which has been upgraded to FTTC over the majority of areas of the national territory, bringing about improvements to the services offered (up to 70 Mbps) where such upgrades have been carried out. GO is gradually deploying an FTTH network, now available in selected locations with FTTH's subscribers benefiting from speeds of up to 500 Mbps. In some areas, a 1 Gbps download speed is being offered by GO.

Melita provides broadband connections with download speeds of up to 250 Mbps (upload 20Mbps) over its cable DOCSIS 3.1 network infrastructure on a nationwide scale and download speeds of up to 1 Gbps in limited areas. Effectively, Melita has upgraded its entire existing broadband customer base to a minimum of 30 Mbps download speed in 2016. Melita also provides its subscribers with access to high-speed Wi-Fi hotspots in main public areas and home modems that have been re-programmed to provide mobile data coverage.

The above-mentioned two operators between them enjoy 96% market share, split almost evenly between them. Other operators, namely Vodafone, account for the remaining market share. Vodafone offers a fixed wireless broadband product, bundled with fixed telephony, to residential and business customers. Other fixed wireless broadband products are offered by Vanilla Telecoms and Ozone Malta, but availability of the service by these two operators is very limited to specific locations covered by the relevant wireless access network infrastructures.

<sup>1</sup> The number of subscriptions supporting download speeds of at least 100 Mbps was up by 25,729 in the 12-month period ending December 2017 (data provided by MCA).

<b>New entrants' DSL subscriptions by type of access (VDSL excluded)</b>	MT-2016	MT-2017	EU-2017
Own network	100%	100%	0.5%
Full LLU	-	-	72.8%
Shared Access	-	-	4.1%
Bitstream	-	-	14.7%
Resale	-	-	7.8%

Source: Communications Committee. Data as of July 2016 and July 2017.

As to the broadband take-up, the majority of broadband subscriptions have now a download speed of 30 Mbps or more. More significantly, 20% of the subscriber base at the end of 2017 had access to at least 100 Mbps download speed, up from just 1.4% two years earlier. This change in the customer profile for the sector is mainly attributable to improved rates per Mbps of download, take-up of bundled subscriptions with discounts, and service providers notifying their clients that some legacy products were being withdrawn and eventually leading customers to migrate to connections supporting faster download speeds of 30 Mbps or more. The rise in the number of fixed broadband subscriptions was reflected in a higher fixed broadband penetration rate.

<b>Fixed broadband prices</b>	MT-2016	MT-2017	EU-2017
Fixed broadband price index [values between 0-100]	-	-	87

Source: Commission Services based on Fixed Broadband Prices in Europe (Empirica). Digital Economy and Society Index 2018.

The Maltese fixed telephony market is characterised by the presence of two main operators: GO and Melita, that remain the largest operators in terms of subscribers. At the end of 2017, GO had a market share of 61%, whilst Melita had a market share of 36%. The combined market share of other service providers stood at 3.0%, the latter share mainly accounted for by Vodafone Malta. The latter has seen a rapid rise in take-up over the last year, in particular thanks to its bundle offer combining fixed telephony and a 30 Mbps download connection. Two recent developments relate to SIS Ltd. and Ozone Malta Ltd. The former ceased operations in the first quarter of 2017, whilst the latter notified the MCA that it no longer uses the WLR and CS/CPS solution offered by GO in order to offer fixed telephony services. Ozone Malta is currently providing fixed telephony services only over its wireless access network infrastructure.

The number of fixed telephony subscriptions at the end of 2017 was higher than reported in 2016, which indicates that end-users still value having a fixed line connection at home or at their business premises. However usage of the service continues to decrease, mainly as a result of fixed-to-mobile substitution. A notable change in the fixed telephony subscriber base is the increase in post-paid subscriptions, with service providers enhancing their efforts to switch end-users from pre-paid to post-paid plans. An additional factor contributing to these developments is the increasing proportion of end-users purchasing the fixed telephony service in a bundled subscription.

## **b. Mobile market**

<b>Mobile market</b>	MT-2016	MT-2017	EU-2017
Market share of market leader	45%	44%	35%
Market share of second largest operator	37%	37%	28%
Number of MNOs	3	3	-
Number of MVNOs	2	2	-
Market share of MVNO (SIM cards)	2%	1%	-

Source: Communications Committee. Data as of October 2016 and October 2017.

There are five authorised undertakings providing retail mobile services in Malta, three fully-fledged mobile network operators (MNOs), each with its own infrastructure, and two resellers marketing Vodafone’s offers under a different brand name.

In the mobile telephony sector both subscribers' number and traffic volumes continued to rise at a steady pace. Mobile data consumption has also witnessed growth in terms of active usage among end-users.

Subscriptions to pre-paid plans remain the most popular amongst end-users, although the growth rate in the number of post-paid subscriptions by far exceeded the growth rate in the number of pre-paid subscriptions during the timeframe under review. Smartphone subsidies, higher data caps and better call and SMS allowances by operators continue to attract subscribers towards post-paid plans.

The increase in the number of mobile subscriptions ultimately led to an increase in the mobile penetration rate.

Mobile telephony has further consolidated its position as the most commonly used form of voice communication in Malta, with traffic volumes rising rapidly year-on-year.

<b>Mobile broadband prices [EUR/PPP]</b>	MT-2016	MT-2017	EU-2017
Least expensive offer for handset (1 GB + 300 calls basket)	€5	€3	€4
Least expensive offer for tablet and laptop (5 GB basket)	€2	€1	€7

*Source: Mobile Broadband Price Study (Van Dijk and Empirica). Prices expressed in EUR/PPP, VAT included. Data as of February 2016 and February (handset) 2017 - July (tablet-laptop) 2017.*

In Malta prices for handsets have significantly decreased in the last year but are still above the average EU level (€3 versus €4) whereas the least expensive offers for tablet and laptop (5 GB basket) are cheaper (€1 versus the EU average of €7).

**Regulatory developments**

**2. Supporting measures for deployment and investment in high-speed networks**

**a. Spectrum**

No new spectrum for wireless mobile broadband has been assigned during 2017.

The NRA regularly updates its National Frequency Plan ("NFP") to reflect, amongst other changes, approaches towards increased flexibility in spectrum use. The NFP, which was last updated in April 2017, indicates which spectrum bands can be traded/leased in Malta.

There were no cases of trading or leasing of spectrum in Malta for the year 2017.

Currently, the MCA has no plans to carry out spectrum refarming in any of the bands used for 2G/3G services.

As to the 2G and 3G networks phase-out, given that rights of use are reported to be technology-neutral, any decision on this matter is expected to be taken directly by the mobile operators, on a purely commercial basis.

With regard to the management of spectrum in the 800 MHz band, the following activities were carried out:

- The MCA facilitated the migration of digital terrestrial television (DTT) services from the 800 MHz band to TV channel 43. The migration of the transmission network was completed in January 2017;
- During 2016-2017, licences were granted to mobile operators for the carriage of non-commercial technical trials in the 800 MHz band. Amongst other things, these trials investigated and resolved cases of harmful interference between LTE and DTT in localised areas. Similar trials continued during the last quarter of 2017;
- In 2016, the MCA published a call for expression of interest and later a call for applications, for the granting of rights of use of radio spectrum in the 800 MHz band. In March 2017, all applicants participating in the 800 MHz band assignment process concurrently withdrew their market interest and this led to a premature termination of the assignment process;
- In August 2017, the MCA launched a public consultation to review the Decision<sup>2</sup> establishing the methodology for the assignment and management of spectrum in the 800 MHz, 1.8 GHz and the 2.6 GHz bands<sup>3</sup>. A revised MCA Decision was published in early October 2017<sup>4</sup>.
- The 800 MHz assignment process was eventually started in August 2017, following a request by GO plc<sup>5</sup>.

As to the reallocation of the 700 MHz band to WBB and the use of the sub-700 MHz band, Malta is carrying out coordination activities with the EU (and North African) neighbouring countries. Discussions with Italy aimed at reaching agreement started at the beginning of 2017. In December 2017 Italy and Malta signed an agreement on the distribution of radio frequencies, based on the principle of equitable access to radio frequencies. Malta has also concluded 700 MHz coordination negotiations with Greece.

The Maltese Authorities have formally requested the assistance of the RSPG good offices to address a deadlock in discussions with Tunisia and Libya on the coordination of spectrum in the 700 MHz band.

By June 2018, Malta intends to adopt a roadmap for the UHF band between 470-790 MHz. This will indicate how Malta intends to make the 700 MHz band available for the provision of WBB applications and other national specific applications (e.g. public protection and disaster

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<sup>2</sup> Decision MCA/D/14-1933.

<sup>3</sup> The new consultation took into account the latest developments in the local mobile industry, particularly those related to a potential market concentration, coupled with the rapid evolution of technology, as well as the results of the aforesaid technical trials.

<sup>4</sup> MCA Decision on the assignment process for additional spectrum for wireless broadband is available here: <https://www.mca.org.mt/consultations-decisions/mca-decision-assignment-process-additional-spectrum-wireless-broadband> Finally, in January 2018, MCA published a call for applications for assignment of additional spectrum for wireless broadband in the 800 MHz band, 1800 MHz band and the 2.5 GHz band. See <https://www.mca.org.mt/articles/assignment-additional-spectrum-wireless-broadband-call-applications>) This call closed on the 19<sup>th</sup> February 2018. The Authority received three submissions from the parties who had earlier on expressed their interest in acquiring the spectrum. The NRA reported that the related spectrum authorisation will be granted by not later than June 2018.

<sup>5</sup> The procedure concluded on 9 April 2018, with the assignment of the 800 MHz band and the 2.6 GHz band. Spectrum in the 1.8 GHz band remained unsold.

relief, Internet of Things (IoT), wireless audio programme-making and special events) as well as the sub-700 MHz band<sup>6</sup>.

Malta reported that cross border DTTV broadcasting interferences issues (in particular with Italy) have been finally solved in 2017. Progress has also been registered with regard to the resolution of FM interference emanating from Italy.

### **b. National and EU investment in broadband**

The Digital Malta Strategy which was articulated in collaboration between the Malta Information Technology Agency (MITA) and the Malta Communication Authority (MCA) was launched in 2014<sup>7</sup>.

Preparations to facilitate the deployment of 5G networks in Malta are ongoing. MCA reported that in 2018, as part of the implementation of the national radio spectrum strategy, it will carry out a feasibility study to identify potential interest and material use cases that tap into the potential of next generation 5G technologies and services for the benefit of the Maltese market.

The study is intended to pave the way to 5G tests and pre-commercial trials in 2019, subject to market interest and involving stakeholders across industry, academia and citizens in line with the EU's 5G Action Plan. 5G trials are expected to support the early introduction of services enabled by 5G technologies in Malta.

According to the Maltese national authority there should not be any impediment for Malta to designate and make available spectrum in the 3.6 GHz and 26 GHz bands for 5G technology following adoption of the relevant instruments aimed to harmonise the use of spectrum.

### **c. Implementation of the Broadband Cost Reduction Directive**

The provisions of the Broadband Cost Reduction Directive<sup>8</sup> were implemented into different already existing laws regulating rights of ways and utilities<sup>9</sup>.

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<sup>6</sup> The national roadmap is currently being prepared and the MCA envisages submitting its proposal to Government in the second quarter of 2018. Meanwhile, the MCA is consulting with the relevant stakeholders on the use of spectrum for wireless audio PMSE, as well as for public protection and disaster relief (PPDR) equipment. A wider consultation process with other key stakeholders is expected to be carried out in the first part of 2018. A review of the national radio spectrum management strategy initiated in 2017 will be finalised and implemented by the first half of 2018. A significant element of the strategy will identify emerging spectrum bands capable of supporting new wireless broadband technologies, such as 5G technology, and services that will require radio spectrum in the near future. The strategy will outline the MCA's policy for the renewal of the radio spectrum licences that will expire in the coming years. It will also set out the work required to prepare for the repurposing of the 700 MHz band for mobile broadband services and the work required to make available other bands identified for 5G technology.

<sup>7</sup> The strategy is a policy document that will guide the country to attain the 2020 Vision that 'Malta will prosper as a digitally-enabled nation in all sectors of society For more information on the Digital Malta strategy see <https://digitalmalta.org.mt/en/Pages/Home.aspx>

<sup>8</sup> Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks (OJ L 155, 23.5.2014, p. 1).

<sup>9</sup> The Utilities and Services (Regulation) Act, Cap. 81, the Electronic Communications (Regulation) Act Cap. 399 and the Malta Communications Act, Cap. 418 and also the making of subsidiary legislation under the Building Regulations Act, Cap.513.

The measures implementing the Broadband Cost Reduction Directive at national level establish that "Transport Malta" acts as Single Information Point.

No disputes have been presented to a Dispute Settlement Body so far.

The competent infrastructure regulator<sup>10</sup> may mandate access to physical telecoms infrastructure (and other utility infrastructures) under the Utilities and Services (Regulation of Certain Works) Act, (Cap 81 of the Laws of Malta) in order to protect the environment, public health, public security or to meet town and country planning objectives.

All three national electronic communications network operators (GO, Vodafone and Melita) have infrastructure sharing agreements in place with Enelmalta plc (the provider of electricity generation and distribution services in Malta) for the use of poles and brackets. Access is normally granted on a national scale or by the local council. Relevant agreements are concluded on a commercial basis.

### **3. Regulatory function**

The MCA currently mandates asymmetric access obligations on GO Plc's physical telecoms infrastructure in relation to Market 4 of the Recommendation on Relevant Markets (2007). More specifically GO is required to (1) provide virtual unbundled local access (VULA) and/or fibre unbundling where fibre to the home (FTTH) fibre to the building (FTTB) are deployed, given that unbundling is currently not feasible for a GPON fibre network and (2) to negotiate access for related facilities including duct access, dark fibre or Ethernet capacity for the purpose of backhaul for local loop and sub-loop unbundling (LLU and SLU).

To date, there are no markets outside the Recommendation on relevant markets that are subject to review.

MCA's Decision on the ex-Market 2 (2007 Recommendation - Wholesale call origination on public fixed telephony networks) was published in March 2016. The decision is currently under appeal and the final decision on the appeal is expected on 13<sup>th</sup> March 2018.

In 2017 the MCA published its Decision on Market 4 (new Recommendation on wholesale high-quality access provided at a fixed location) that has not been appealed.

As to the Market 2 (new Recommendation -Wholesale voice call termination on individual mobile networks) national consultation and the notification of draft measures are expected for the first quarter of 2018 and the MCA Decision is expected for the second quarter of 2018.

There is currently a delay on the review concerning the Markets 3a and 3b of the 2014 Recommendation on Relevant Markets, following a notification of concentration registered with the National Competition Authority, the MCCA, whereby Vodafone Malta Ltd and Melita Ltd have outlined their interest to merge their commercial activities in the provision of electronic communications services. As the merger is no longer taking place, the consultation is expected to be published in the third quarter of 2018.

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<sup>10</sup> In line with the First Schedule of The Utilities and Services (Regulation of Certain Works) Act, the Authority for Transport in Malta (TM) is the public sector body designated as a "competent infrastructure regulator".

The Fixed Termination Rate of 0.0443c was established from a decision published in December 2012 and was based on the Commission Recommendation's Pure-LRIC approach.

In March 2014, the MCA issued a decision bringing into force a Mobile Termination Rate (MTR) calculated with a bottom-up model based on the Pure-LRIC approach, as laid down in the Commission Recommendation of May 2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates. The MTR is 0.4045c per minute. Vodafone had filed an appeal before the Administrative Review Tribunal for the revocation of this decision. In January 2018 the Administrative Review Tribunal decided that there were no grounds to uphold Vodafone's request and accordingly, decided in favour of the MCA.

There were no significant legislative developments in 2017 in relation to the powers of the MCA.

Since June 2017, the ministerial responsibility lies with the Parliamentary Secretary for Financial Services, Digital Economy and Innovation, within the Office of the Prime Minister.

#### **4. Consumer matters**

During the reporting year the MCA received 215 complaints in total, 97% of which were closed within 20 working days. The complaints lodged with the Authority during this period, related predominantly to quality of service, billing issues, and termination. During this period the Authority also received 473 requests for information<sup>11</sup>.

During 2016, the Authority raised the matter of incorrect billing directly with a particular service provider after it resulted that the majority of the complaints concerned the same service provider. On the basis of enforcement actions taken by the MCA, this service provider implemented a number of measures based on the recommendations put forward following the undertaking of an independent audit. These aimed at strengthening the service provider's internal controls to ensure that the billing system is operating effectively. The measures proved to be effective since the number of complaints on incorrect billing decreased significantly since then..

At the end of 2016, the MCA issued a decision titled Broadband QoS framework<sup>12</sup>. After a transitional period of 4 weeks, internet service providers were required to specify the Broadband Access Speed through the use of the 'Typical Speed Range' parameter using the methodology established in the same decision. This requirement is applicable to all services marketed as fixed broadband, irrespective of the technology employed by the provider. The said decision requires that such information is published in any advertising material (including on the service provider's website) and in subscriber contracts. Other aspects of the decision related with the measurement of a number of QoS parameters carried a nine-month transition period, whereby service providers had to comply with the decision.

As part of its consumer awareness function, during the period under review, the MCA launched an educational campaign on the internet<sup>13</sup>. This campaign delved into various

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<sup>11</sup> Full report is available here: <https://www.mca.org.mt/articles/mca-end-user-half-yearly-statistical-report-january-june-2017?language=en>

<sup>12</sup> View decision on Broadband QoS framework here: <https://www.mca.org.mt/sites/default/files/decisions/Broadband%20QoS%20Framework%20-%20Extended%20Decision.pdf>.

<sup>13</sup> View information on the internet campaign here: <https://www.mca.org.mt/internet>

aspects, including the factors end-users should consider when subscribing to an internet package, the net neutrality regulations, how to maximise end-users' internet user experience, how the internet works and end-users' rights and remedies when dealing with internet service issues.

### **a. Roaming**

Penalties and sanctions are regulated in the Malta Communications Authority Act (MCAA)<sup>14</sup>. In case of a breach of relevant EU legislation (Regulation 2015/2120/EU)<sup>15</sup>, administrative fines not exceeding €350 000 for each infringement and/or €12 000 for each day of non-compliance may be imposed. If the infringement, in MCA's opinion, has '*especially significant effects on the market to the detriment of competitors and/or consumers*' the amount of the fine may be increased up to 5% of the turnover of the undertaking concerned for the year immediately preceding the infringement. This provision<sup>16</sup> came into force on 30 April 2016. No applications for sustainability derogation were received, and no increases in domestic prices before or after the 15 June 2017 were noticed by the NRA.

In addition, through an internal analysis, the MCA observed a change in data roaming usage patterns where both the Maltese travelling abroad and the foreigners visiting Malta increased their usage. During the initial phases of the RLAH, the main issue raised by the consumers concerned incorrect information provided in the transparency message and the late reception, or non-reception, of the message notifying customers about the data cut-off applicable mechanism when travelling outside the EU.

Following the introduction of Roam Like at Home<sup>17</sup> (RLAH) in June 2017, Maltese subscribers consumed 1.1 times more voice and 2.7 times more data roaming services when travelling in the EU in summer 2017 compared to summer 2016<sup>18</sup>.

### **b. Net neutrality**

Penalties and sanctions are regulated in the Malta Communications Authority Act (MCAA)<sup>19</sup>. In case of a breach of EU relevant legislation<sup>20</sup>, administrative fines not exceeding €350 000

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<sup>14</sup> More precisely, this is regulated under Part VI of the Malta Communications Authority Act (MCAA), Cap. 418 of the Laws of Malta, introduced following the enactment of Act XVIII of 2016, in particular Article 33 of the MCAA.

<sup>15</sup> Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1).

<sup>16</sup> Paragraph 7 of Article 20 of Act XVIII of 2016, which effectively provided for the application of Part VI of Cap. 418, came into force on 30 April 2016, as per Legal Notice 172 of 2016.

<sup>17</sup> Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10), as amended by Regulation (EU) 2015/2120 and Regulation (EU) 2017/920.

<sup>18</sup> Figures compare Q3/2017 with Q3/2016 retail roaming volumes according to the BEREC International Roaming Benchmark Report, April 2017-September 2017, published on 14 March 2018.

<sup>19</sup> More precisely, this is regulated under Part VI of the Malta Communications Authority Act (MCAA), Cap. 418 of the Laws of Malta, introduced following the enactment of Act XVIII of 2016, in particular Article 33 of the MCAA.

<sup>20</sup> Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1).

for each infringement and/or €12 000 for each day of non-compliance may be imposed. If the infringement in the opinion of the MCA has '*especially significant effects on the market to the detriment of competitors and/or consumers*' the amount of the fine may be increased up to 5% of the turnover of the undertaking concerned for the year immediately preceding the infringement. This provision came into force on 30 April 2016<sup>21</sup>.

The Malta Communications Authority Act empowers the MCA to regulate matters concerning Regulation (EU) 2015/2120 on Net Neutrality, including enforcement and penalties.

In June 2017 the MCA notified the Commission of the publication of a report specifying the work carried out by the Authority on the implementation of the EU Net Neutrality Regulation<sup>22</sup>. The report covers the period from 30<sup>th</sup> April 2016 until 30<sup>th</sup> April 2017 and details the MCA's approach to compliance activities with Regulation 2015/2120 concerning open internet access. Section 4 of the above mentioned report provides a summary of the non-compliance issues identified by the MCA and the remedial actions undertaken.

By way of conclusion in the report the MCA positively noted that there were no major concerns regarding open internet access in Malta. The MCA did not encounter situations which required deviation from the BEREC guidelines.

### **c. 112**

The following functionalities are operational and fully tested through all local network operators: Caller location, Advanced Mobile location and eCall. In 2017 Malta set up a new and segregated main 112 control room, housed at the Police General Headquarters; a secondary setup is located at the Civil Protection Headquarters, serving as primary PSAPs while Health, Army and Police are serving as secondary PSAPs. The competent Ministry also launched a campaign to raise awareness on 112 that includes: TV commercials; Radio and TV talks; Provision of promotional material (leaflets, stationery etc.).

In addition to the above, the system adopted in Malta includes the following measures for the assistance of disabled end-users: SMS availability; mobile app so that apart from text messaging, one can send photos and eventually videos to the 112 PSAP; caller location through FlagMii services; caller location through Cell ID and ELS; eCall service which can be triggered automatically from inside the car or otherwise manually by the car owner or passenger.

## **5. Conclusion**

Malta is a European leader in fast broadband with full coverage of NGA networks. Malta is already taking specific measures and initiatives aimed at encouraging the demand of NGA broadband and improving the digital skills of the population and these measures should be further pursued.

As far as spectrum management is concerned, Malta has taken concrete steps in coordinating with EU neighbouring Member States and third countries (namely, North African

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<sup>21</sup> Paragraph 7 of Article 20 of Act XVIII of 2016, which effectively provided for the application of Part VI of Cap. 418, came into force on 30 April 2016, as per Legal Notice 172 of 2016.

<sup>22</sup> Full report can be retrieved here <https://www.mca.org.mt/articles/report-malta-communications-authority-work-implementation-eu-net-neutrality-regulation>

neighbouring countries) in view of making the 700 MHz band available for the provision of WBB services. The procedure for the assignment of the 800 MHz band was completed in the first quarter of 2018, with the assignment of the 800 MHz band and the 2.6 GHz band. Spectrum in the 1.8 GHz band remained unsold.

With regard to 112, significant progress have been made: during 2017 the Maltese Ministry for Home Affairs and National Security, following a collaboration with emergency stakeholders, communication service providers and the Malta Communications Authority, managed to set-up a new 112 system, which was finally launched on the 23rd March 2018.m The new system should ensure, *inter alia*, a more efficient and precise location emergency tracking<sup>23</sup>.

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<sup>23</sup> See <https://www.mca.org.mt/articles/112-emergency-service-%E2%80%93-more-accurate-location-tracking>.