



GRA








GIBRALTAR REGULATORY
AUTHORITY

Gibraltar Regulatory Authority

Annual Report 2015 / 2016



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CEO Statement



Introduction

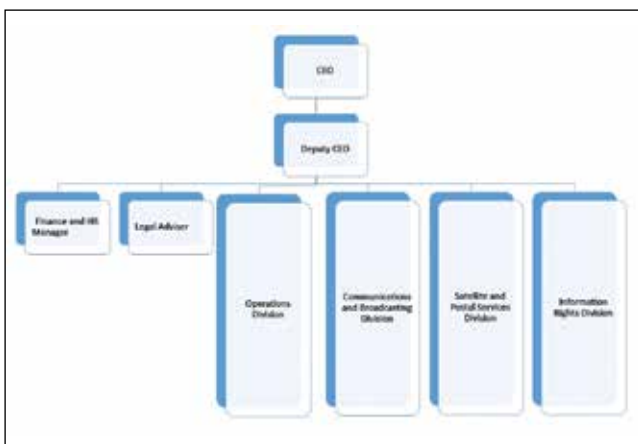
This Annual Report of the Gibraltar Regulatory Authority is prepared in accordance with section 19(1) of the Gibraltar Regulatory Authority Act 2000, and covers the period 1st April 2015 to 31st March 2016.

Gibraltar Regulatory Authority Act 2000

With effect from 1st January 2016, and in the exercise of the powers conferred on him under the Gibraltar Regulatory Authority Act 2000, the Chief Minister reappointed Mr Francis Lopez to be a member of the Authority's Board for a period of two years. The Board, in accordance with section 3 of the Gibraltar Regulatory Authority Act 2000, consists of the Authority's Chief Executive Officer and the Deputy Chief Executive Officer, and three appointed members, namely Mr Anthony Provasoli, Mr Kieran Power and Mr Francis Lopez.

Organisation and Staffing

The Authority has a total staff of twenty-one and is divided into four Divisions, each with their own structure and responsibilities. The work carried out by the Divisions is briefly summarised below.



Electronic and Radio Communications

The main role of the Division is to enhance competition in the local electronic communications sector. This is done by facilitating market entry through authorisations and licences, and by regulating access networks to develop effective choice for both business and residential customers.

This year, the Division has undertaken a number of projects, some of which are driven by developments in the EU, and others undertaken on its own initiative. In late 2015, Regulation (EU) 2015/2120 was published, establishing common rules to safeguard equal and non-discriminatory treatment of traffic, in the provision of internet access services and related end-users' rights. The Authority contacted all relevant parties as measures have to be put in place by internet access providers and roaming providers in order to comply with the Regulation.

The Gibraltar Government has transposed EU Directive 2014/61/EU in the form of the Broadband Infrastructure Regulations 2015 which seek to encourage public communications network operators to share their physical infrastructure with other utilities providers. The Authority has been assigned as the body dealing with disputes under this Regulation.

In September 2015, a complaint was received against Gibtelecom in respect of roaming charges incurred by a client whilst travelling in Israel using Gibtelecom's service. Following an in-depth analysis, the Authority concluded that Gibtelecom had not adequately informed the customers in question of their roaming data expenditure in accordance with the Roaming Regulation.

Division members have also attended a number of conferences and workshops over the last year.

Satellite Communications

The Division is responsible for looking after the interests of the satellite industry, representing the Gibraltar-based operator SES Satellites (Gibraltar) Ltd ('SES-G') at international meetings and ensuring it complies with the International Telecommunication Union (ITU) Radio Regulations and all other international obligations.



The Division assesses each new filing and validates them before they are forwarded to the UK administration, for submission to the ITU. The Division also assists with the co-ordination of these satellite networks located in over 25 orbital slots.

This year, one of the Gibraltar filings was brought into use and is operating under the AMC-1 satellite at the 129W orbital location providing services to North America, parts of Central America and the Caribbean.

The Authority has this year issued an Outer Space Act licence for a new satellite called SES-9. The satellite was successfully launched by SpaceX on 4th March 2016. The SES-9 will replace the NSS-11 satellite, the first satellite launched into a UK/Gibraltar orbital slot which is now nearing its end-of-life.

Information Rights

During the 2015/2016 period, the Division has initiated a systematic approach to inspections that focus on particular areas of an organisation's processing operations and has also introduced the use of undertakings as a new enforcement tool. In these cases, the offending data controller pledges to carry out corrective actions to ensure compliance with the DPA, in accordance with the circumstances of the case and requirements of the Commissioner. Undertakings help to demonstrate an organisation's recognition of a contravention and their responsibility, as well as the commitment to review the arrangements and undertake remedial action to ensure compliance with the DPA.

The Division's activities in respect of raising awareness have also continued to develop, with further plans for these activities for organisations and the public in general significantly advanced.

Internationally, the Division has continued its contributions to International Working Groups on Cooperation and Digital Education where it has been an active member despite the relatively small size of the Division.

Broadcasting

Since the introduction of the Broadcasting Act 2012 the Broadcasting Division has been responsible for the granting and enforcement of licences to broadcasters, regulating matters on broadcasting standards, the issuing of codes of practice and encouraging the promotion of media literacy. The Division is responsible for providing guidance to consumers, purchasers and

other users of the broadcasting services in Gibraltar, including the public service broadcaster with whom the Division mutually cooperates with.

At present, Gibraltar has two television broadcasters and two radio broadcasters.

Evidently, there is great scope for radio and television broadcasters alike to be licensed in Gibraltar following the launch of the digital broadcasting network in 2012, and there is potential in this network that is yet to be explored by broadcasters. Nonetheless, the Broadcasting Division has been receiving interest, particularly from overseas business based in the UK, who aspire to broadcast their services in Gibraltar.

Postal Services

The Postal Services Division of the Authority is responsible for the granting and enforcement of licences issued to postal service providers, in accordance with the Post Office Act and the Postal Services (Authorisation) Regulations 2012.

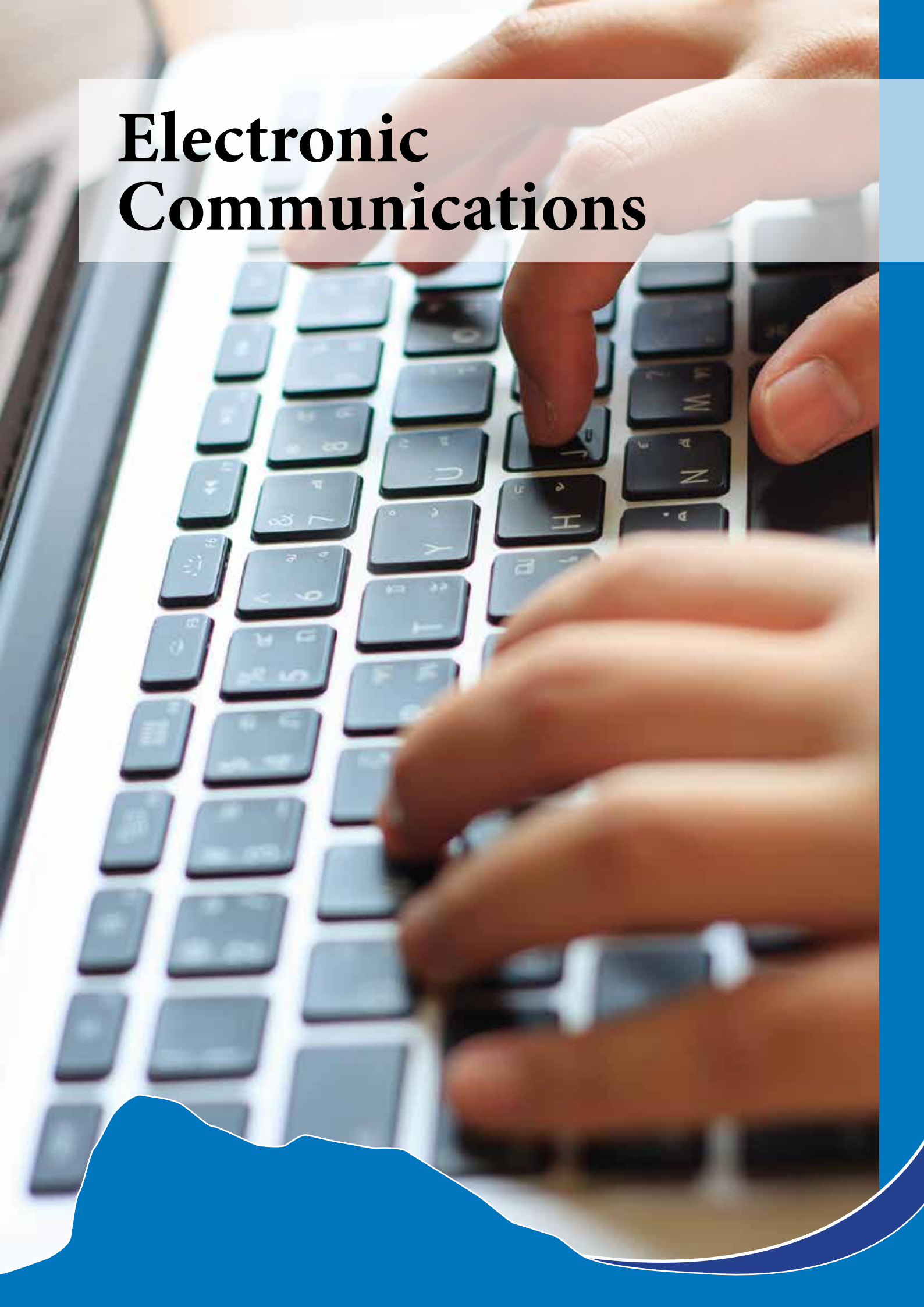
The Authority's statutory objective is to promote development and enhance competition within the local postal services sector, whilst securing the provision of a competitive universal postal service at an affordable price for all users in Gibraltar.

During the reporting period, the Division broadened its focus and successfully carried out inspections of all registered postal service providers in Gibraltar. The Division also used these inspections to provide guidance and recommendations to service providers and gain a better understanding of the industry in order to ensure compliance with the requirements of the Act.

Revenue and Expenditure

The Authority collects administrative charges from providers of electronic communications services and networks, radiocommunications licence fees and other reimbursements. During the 2015/2016 financial year, the total collected was £1,894,213.58, which was paid into the Consolidated Fund. This compares to expenditure (calculated on a cash basis), for all of the Authority's Divisions of £1,590,021.57.

Electronic Communications



Introduction

The Communications Division is responsible for regulating all electronic communications transmission networks.

The main role of the Division is to enhance competition in the local electronic communications sector. This is done by facilitating market entry through authorisations and licences, and by regulating access networks to develop effective choice for both business and residential customers. In a rapidly evolving sector, the Authority seeks to ensure that consumer demands for competitive services, both of the highest quality and at a reasonable cost, are met in a prompt and efficient manner.

In the period 2015/2016 the Division has undertaken a number of projects, some of which are driven by developments in the EU, and others undertaken on its own initiative. In late 2015, Regulation (EU) 2015/2120 was published, establishing common rules to safeguard equal and non-discriminatory treatment of traffic, in the provision of internet access services and related end-users' rights. The Authority contacted all relevant parties as measures have to be put in place by internet access providers and roaming providers in order to comply with the Regulation. Before the close of 2015, the Gibraltar Government also transposed EU Directive 2014/61/EU. This culminated in the Broadband Infrastructure Regulations 2015 which seeks to encourage public communications network operators to share their physical infrastructure (e.g. pipes and ducts), not only with other network operators in the telecoms sector but also that of network operators in other sectors such as electricity and water. The Authority was subsequently assigned as the body dealing with disputes under this Regulation in accordance with its powers in the Communications Act 2006.

In September 2015, on receiving a complaint from Ramparts European Law Firm, in respect of roaming charges incurred by a client whilst travelling in Israel using Gibtelecom's service, the Authority undertook an investigation focusing on Regulation (EU) No. 531/2012 on roaming on public mobile communications networks within the Union (Roaming Regulation). Following an in-depth analysis, the Authority concluded that Gibtelecom had not adequately informed the customers in question of their roaming data expenditure in accordance with the Roaming Regulation.

Division members have also attended a number

of conferences and workshops over the last year. During the first week of October 2015, the Division was represented at the IIC's Communications Policy and Regulation Week, hosted by the Federal Communications Commission in Washington DC. Key themes such as competition and market failure, as well as increasing access in developing countries were discussed. In addition, for the third consecutive year, the Division, together with the Broadcasting Division participated in a meeting for small regulatory authorities. This forum has brought together regulators from European jurisdictions who face similar challenges due to their limited resources and small economies. The forum provides a good opportunity for members to share their valued experience in matters which other members may not have experienced yet, and to seek help with ongoing issues.

International Participation

i. European Commission pre-notification meeting, Brussels, Belgium, 29th April 2015

On 29th April 2015, two members of the Division together, with the Authority's legal advisor travelled to the European Commission in Brussels to attend a pre-notification meeting in relation to the wholesale fixed and mobile markets review. The markets concerned were wholesale fixed call origination and termination markets, wholesale mobile call termination and the wholesale SMS termination market.

Pre-notification meetings are offered by the Commission in order to assist with the market review process and to provide guidance as well as informal advice to NRAs in relation to the markets concerned. The Authority makes full use of the beneficial nature of these meetings in strengthening its preliminary analysis of the relevant markets.

The meeting was attended by Stefan Kramer, Deputy Head of Unit, Coordination of Article 7 notifications, DG CONNECT, and Tarja Tuovila, working under the Communications Networks, Content and Technology Directorate-General.

The Authority's staff discussed its proposals and explained to the Commission their reasoning behind the analysis for each market using the three criteria test, which assesses whether there are any barriers

to entry, the tendency towards competition and the effect of competition law on the market.

Given the emergence of new messaging technologies, a preliminary assessment of the wholesale SMS termination market showed it to be competitive on a forward looking basis. In particular, statistics from a customer survey conducted by the Authority in December 2014 revealed that 92% of mobile customers were now using alternative means of instant messaging services such as WhatsApp and Facebook Messenger.

In contrast, the wholesale mobile call termination market was not deemed as being competitive given that both Gibtelecom and Eazitelecom have 100% market share on their own network. Therefore, it was proposed to designate SMP on both mobile operators in this market.

Similar assessments were conducted in the fixed markets which showed that fixed call origination was deemed as competitive yet the fixed termination market was still dominated by Gibtelecom.

Overall, the team was pleased with the outcome of the meeting and the feedback received from the Commission which aided in preparing its official review of the markets.

ii. International Institute of Communications (IIC), Washington DC, USA, 5th – 8th October 2015

During the first week of October 2015 one member of the Division attended the IIC's Communications Policy and Regulation Week hosted by the Federal Communications Commission in Washington DC. The week's activities were split between a regulator's forum and annual conference where more than 200 delegates from over 40 countries attended.

Key themes such as competition and market failure, increasing access in developing countries together with how the Internet is bringing about positive societal gain and convergence of communications platforms were discussed. The forum and conference also provided an invaluable opportunity to network and share experiences with other regulators and operators dealing with similar issues across the globe.

iii. 3rd Forum for Small Regulatory Authorities (FSRA), Dublin, 15th September 2015

The Division attended the third meeting for small regulatory authorities, this time held in Dublin, Ireland and hosted by the Broadcasting Authority of Ireland

(BAI). The agenda items included topics from the telecommunications and broadcasting sectors and all Division members actively participated in discussing matters such as a business connectivity market review, regulating companies which provide Over-the-Top ("OTT") services, and margin squeeze tests.

Members of the BAI, the Commission for Communications Regulation in Ireland, the Broadcasting Authority of Malta and the Communications Commission of Isle of Man were present at the meeting. These meetings now provide a unique opportunity to discuss specific issues with regulators of similarly sized jurisdictions. Over the last three years, the forum has developed into a very valuable conference for the Division, where on various occasions the feedback and comments received from other members have provided extremely useful information. The Division remains committed to interchanging information which may also help other regulators in their own day to day operations.

iv. Market reviews workshop with GOS Consulting, London, UK, 19th January 2016

On 19th January 2016, the Division attended a workshop with GOS Consulting in London. The workshop was organised in order to discuss and develop the broadband access market public consultation. The recent and rapid developments in the retail broadband market had led the Division to revise its position on what remedies to consider for the upcoming review period. The latest available data showed significant changes in the broadband market and the consultant advised the Authority to consider the possibility of de-regulating this entire broadband access market due to the emergence of competition and the high probability that this is likely to increase over time.

v. Market reviews meeting with Ofcom, London, UK, 20th January 2016

The Division organised a meeting with members of the market review team at the Office of Communications (Ofcom), the UK telecoms regulatory body, for assistance with the broadband access market review. The specific issues relating to Gibraltar's market were discussed at length and the Division's proposals to de-regulate the market were considered.

Although comparisons are unlikely to be drawn between the UK telecoms market and Gibraltar's, the vast experience of Ofcom's staff and the resources available to them made this meeting crucial in terms

of the value of the opinion which they provided to the Division on proposed direction for the broadband access market review. After considering all options, Ofcom suggested that, due to the extensive network rollout throughout Gibraltar and the emergence of competitive retail packages, to seriously consider de-regulating the market and removing all significant market power obligations imposed on Gibtelecom. The Division will be presenting its proposals to the European Commission during the next financial year.

Regulatory Matters

The following is an outline of the regulatory matters in which the Division has been involved in for the period 2015/16.

i. Market reviews

Wholesale Call Origination and Wholesale Call Termination on Fixed Networks

On 10th June 2015, the Authority issued a national consultation on wholesale call origination on the public telephone network provided at a fixed location, and wholesale call termination on individual public telephone networks provided at a fixed location. At the time of the consultation, Gibtelecom was the only operator providing fixed call services in Gibraltar and therefore was deemed to have significant market power (SMP) in the wholesale fixed call termination market, given its 100% market share.

In terms of wholesale fixed call origination, this market was considered to be competitive and therefore its previous designation of SMP was removed given that the market was no longer considered to be susceptible to ex-ante regulation. When analysing the competitive nature of the market, the Authority considered the three criteria test which assesses whether there are any barriers to entry, the tendency towards competition and the effect of competition law on the market.

Following comments from the European Commission, the Authority published a decision notice in October 2015 which reinforced its preliminary proposals. Gibtelecom's SMP status was therefore removed in the call origination market but remained in the call termination market. Consequently SMP obligations of transparency, non-discrimination, accounting separation, access, cost accounting and price controls

were imposed.

Wholesale Call Termination and Wholesale SMS Termination on Mobile Networks

The Authority issued a national consultation on wholesale call termination on individual mobile networks and wholesale SMS termination on individual mobile networks on 17th June 2015. Both mobile operators in Gibraltar i.e. Gibtelecom and Eazitelecom were considered, and both were deemed to have SMP in the wholesale mobile call termination market given their 100% market share.

In contrast, the wholesale SMS termination market was deemed to be competitive on a forward looking basis given its failure to satisfy the three criteria test. When assessing the second criterion of the test i.e. the market's tendency towards competition, it was concluded that following a customer survey, 92% of mobile customers had substituted traditional SMS's with alternative means of instant messaging services such as WhatsApp and Facebook Messenger. Given the increase in the number of smart phones and high broadband penetration, the SMS termination market was considered to be competitive given that these new messaging technologies were included in its market definition.

Following comments from the European Commission, the Authority published a decision notice in October 2015 which reinforced its preliminary proposals. Gibtelecom's and Eazitelecom's SMP status therefore continued in force in the wholesale mobile call termination market but its SMP obligations were removed in the wholesale SMS termination market.

ii. Universal service

On 9th September 2015 Public Consultation C07/15 Designation of Universal Service Provider (USP) was issued. The Universal Service review is carried out every three years and sets out a minimum set of services which must be provided by the designated service provider(s). Based on the information available at the time, the Authority proposed to designate Gibtelecom as USP for a number of Universal Service Obligations (USOs) including, provision of access at a fixed location, provision of telephone services, directory enquiry services and directories, public pay telephones, measures for disabled users and affordability of tariffs for universal services.

The Public Consultation invited comments on the Authority's proposal. Gibtelecom and Sapphire Networks responded to the Public Consultation and generally accepted the Authority's position on all

points proposed, except the proposal to raise the minimum broadband speed for functional internet access to 10mbps. After considering the comments provided by both parties, the Authority issued Decision Notice C08/15 on 25th September 2015. The Authority accepted Gibtelecom's reasoning to keep the minimum broadband speed for functional internet access at 4mbps as they proposed in their response instead of the 10mbps which the Authority initially proposed. Furthermore, Gibtelecom was designated as USP for the following period of three years, commencing 30th September 2015.

iii. Accounting procedures

Under the provisions of the Communications (Access) Regulations 2006, operators with an accounting SMP obligation may be mandated to disclose accounting records, including data on revenues received from third parties, to facilitate the Authority's task of verifying that the operator concerned has complied with the obligations imposed upon it. Furthermore, operators designated as having SMP may need to operate and maintain a cost accounting system that complies with the specific requirements and guidelines issued by the Authority.

After considering the views of all respondents to a public consultation on accounting separation, cost accounting systems, cost orientation and retail price notification, the Authority published Decision Notice C01/15 in June 2015.

Decision Notice C01/15 sets out the Authority's conclusions regarding compliance with accounting separation and cost accounting obligations by SMP operators. It details the specific accounting requirements and provides guidance for providers to operate and maintain a fully compliant cost accounting system.

Gibtelecom is currently the only operator with accounting SMP obligations and is therefore required to follow the requirements and specifications laid out in this document in order to produce, amongst other things, its annual separated accounts every September. The accounting separation report is therefore a vital compliance tool which allows the Authority to delve deep into business operations.

iv. Directions

A Direction was issued to Gibtelecom on 1st September 2015 regarding its accounting separation and cost accounting significant market power obligations

following a delay on Gibtelecom's part to submit a fully compliant ASR for the year 2013 and 2014.

As a result of its high market share and the non-competitive nature of these markets, Gibtelecom is subject to accounting separation and cost accounting obligations in both retail and wholesale markets and therefore has to comply with the accounting policies set by the Authority. The Authority previously had consulted industry on these policies and published Decision Notice C01/15 on Accounting Separation, Cost Accounting Systems, Cost Orientation and Retail Price Notification. The ASR's are to be fully compliant with Decision Notice C01/15.

Following various extensions to the deadline granted by the Authority and exchanges of correspondence on the numerous issues affecting the 2013 ASR, the Authority contacted Gibtelecom and suggested it temporarily prioritise work on producing a fully compliant 2014 ASR instead of continuing with the 2013 document.

Gibtelecom submitted the 2014 ASR on December 11th 2015 and the 2013 ASR on 1st February 2016. The Authority contracted external consultants who are currently analysing Gibtelecom's compliance and should be finalising its review shortly.

v. Roaming complaint

On the 22nd September 2015, the Authority received a complaint from Ramparts European Law Firm, instructed by the Complainant, in respect of roaming charges incurred by their employees during time spent in Israel in June 2015. The total amount in question was in excess of £9,000.

The Authority sent a letter to Gibtelecom on 1st October 2015 advising it of the complaint received and requesting information as well as Gibtelecom's position on the matter. Gibtelecom claimed that they took the necessary steps to inform the Complainants of the usage they were incurring at different data thresholds whilst roaming. This culminated in their respective data being restricted in order to safeguard their expenditure.

The Authority referred to Regulation (EU) No. 531/2012 on roaming on public mobile communications networks within the Union (The Roaming Regulation). The main aim of this Regulation is to ensure that a roaming provider has all the necessary safeguards in place in order for roaming customers to avoid experiencing bill shock. Bill shock is said to occur when a mobile customer unexpectedly receives an expensive bill, usually incurred whilst roaming on a

foreign network. One of the ways in which bill shock can be avoided is by adequately informing customers of the financial charges which apply to their use of data roaming services and by allowing them to monitor and control their expenditure.

Following an in-depth investigation, the Authority concluded that Gibtelecom had not adequately informed the customers affected of their roaming data expenditure in accordance with the Roaming Regulation. Gibtelecom took the necessary steps to exclude the unsettled charges incurred by the Complainant.

vi. EU Regulations/Directives

In late 2015 the following Regulation was published in the Official Journal of the European Union.

Regulation (EU) 2015/2120 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.

The Regulation establishes common rules to safeguard equal and non-discriminatory treatment of traffic in the provision of internet access services and related end-users' rights. It also sets up a new retail pricing mechanism for Union-wide regulated roaming services in order to abolish retail roaming surcharges without distorting domestic and visited markets.

The Authority has contacted all relevant parties as measures have to be put in place by internet access providers and roaming providers in order to comply with the Regulation. In addition, the Authority has to closely monitor and ensure compliance with the Regulation.

On 24th December 2015, the Government transposed EU Directive 2014/61/EU on measures to reduce the cost of deploying high-speed electronic communications networks. The Broadband Infrastructure Regulations 2015 seeks to encourage public communications network operators to share their physical infrastructure (e.g. pipes and ducts) not only with other network operators in the telecoms sector but also that of network operators in other sectors such as electricity and water.

The ultimate aim, from the Authority's point of view is that this Regulation will allow high-speed broadband to reach as many people as possible and reduce the

cost of broadband rollout.

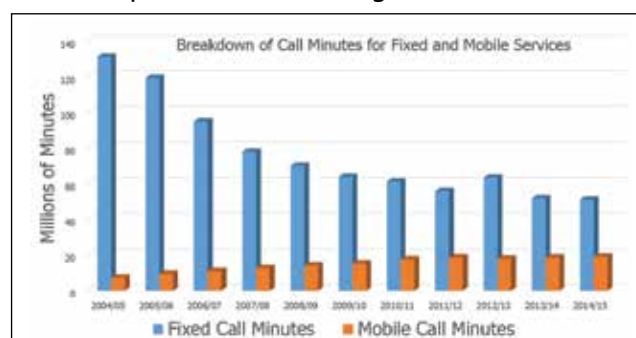
Consequently, the Authority has been assigned as the body dealing with disputes under this Regulation in accordance with its powers as set out in section 92 to 98 of the Communications Act 2006.

vii. Statistics and trends

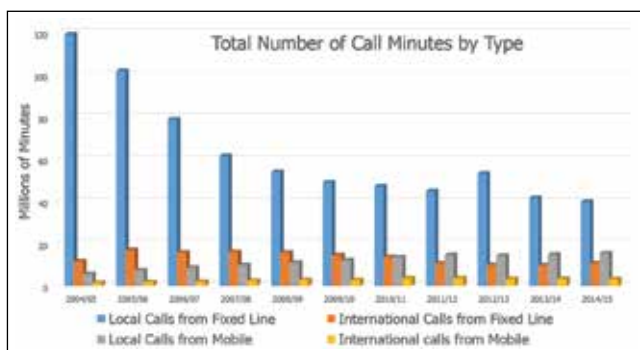
In the period 2015/2016, Gibraltar experienced a further decrease in the total number of call minutes made via traditional telephony. Although there appears to be an increase in the total number of broadband subscribers and mobile data users, there is no way of accurately measuring the extent to which IP telephony and OTT services such as Skype, Facetime etc. are being used. This conclusion is derived from the fact that the total number of outgoing call minutes made in 2015/2016 was 62.9 million, which is considerably less than for the 2014/2015, in which the figure was 69.9 million. An overall decrease however, can be appreciated when previous years are compared as follows:



The chart below shows, however, that there was a slight decrease in the number of calls made using mobile phones, and a notable decrease in the number of calls made using fixed lines. This trend is in line with global trends, where there appears to be a shift from the use of traditional communication methods, to OTT communications services which are free and easily accessible on ordinary smart devices. The chart below shows the gradual growth of mobile usage over the past 10 years, although it should be noted that this past year has seen the first, albeit slight, drop in mobile phone minutes being consumed.

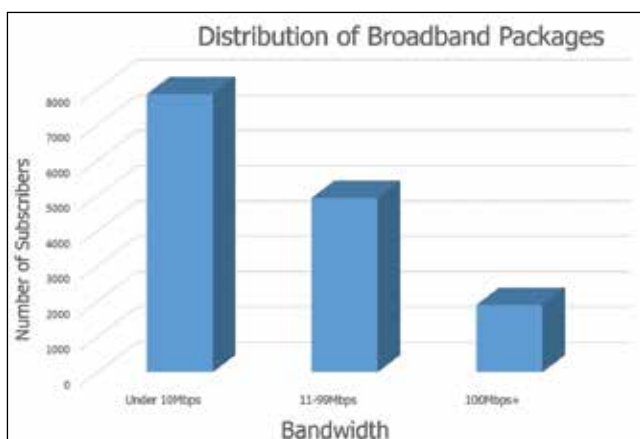


The chart below represents the number of call minutes by call type (local and international from both fixed and mobile). During the last decade it is clear that dependence on mobiles is rising due to the increase in the use of mobile phones, both for local and international calls.



At the end of the year 2015/16, there were 14,716 broadband subscribers in Gibraltar. Since the two new broadband providers (U-Mee and Gibfibrespeed) started offering services, subscribers are now enjoying FTTH broadband speeds of up to 300Mbps, as well as customizable packages in excess of 300Mbps.

The chart below shows the distribution of broadband packages in Gibraltar.



Despite there being packages in excess of 300Mbps on offer, based on the number of subscribers consuming a range of broadband services, the median package speed currently being purchased in Gibraltar is around 7Mbps. It is expected that this median number will rise over time, as consumers shift to the higher bandwidth products on offer, and lower bandwidth packages become obsolete. It is widely accepted that consumers generally want faster broadband and evidence of this is being observed in Europe and the rest of the world.

When comparing the packages on offer in Gibraltar to those offered in the rest of Europe, Gibraltar fairs positively, with an average package speed of around 65Mbps compared to the 53Mbps European average.

viii. Revenue Collected

During the period 2015/2016, and in accordance with the provisions of Regulation 31(9) of the Communications (Authorisation and Licensing) Regulations 2006, and Direction M01/2006 of the 5th June 2006 concerning Administrative Charges, the Authority collected a total of £830,393.14 in respect of the administrative charges for network and service providers.

Radio Communications



Introduction

As part of its remit under Part VI of the Communications Act 2006, the Authority is responsible for the management and control of the electromagnetic spectrum. Among its duties, the Authority carries out regular site inspections of sites known to emit radio waves, with a view to ensuring they operate within recognised, safe guidelines. The Authority is also responsible for the management and allocation of frequencies, which extends to those used by mobile operators for the provision of mobile voice and data services. The Authority also issues licences, on behalf of the Government, to all users of licensable equipment which emits radio waves.

Regulatory Matters

The following is an outline of the radio communications regulatory matters in which the Authority has been involved in for the period 2014/2015:

i. Fourth Generation of Mobile Telecommunications Technology (4G)

Gibtelecom successfully launched its commercial 4G+ service on 15th Feb 2016 after several months of testing. During the final beta testing phase, some members of the public were invited to use the service in order to tweak the network, and load test it before the public launch. 4G+ is the evolution of 4G which delivers greater download speeds because it combines the capacity of both frequency bands, 800 MHz and 2600 MHz for a theoretical download speeds in excess of 225 mbps. However, only certain handsets will be able to experience the full potential of the 4G+ service but, on average, all users with 4G compatible phones should experience higher speeds, responsiveness and coverage.

The Authority has been working with Gibtelecom's engineers, as well as the Town Planner's Office and the Environmental Safety Group, to ensure the additional base stations operate well within the International Commission on Non-Ionizing Radiation Protection's (ICNIRP) guidelines and also ensure that, at launch, there was 70% population and minimum 5Mbps download speeds. The minimum requirements were established in the "Consultation on the Licensing of

4G Mobile Services & Liberalisation of Mobile Bands in Gibraltar", and these were exceeded with an estimated coverage of 95% of the population with download speeds in excess of 100 Mbps.

ii. WiFi: Brief Outline On Technology Issues and Power Levels

The continued increase in WiFi enabled devices which are available for consumers has made WiFi ready portable devices ubiquitous, especially in the home. However, WiFi as with all radio transmitters, are susceptible to interference from other sources including WiFi devices themselves. This creates interference problems especially in a densely populated country like Gibraltar, where the limitations of this technology are starting to become common place. In many cases, by using free downloadable apps for smart phones, it is possible to analyse what channels are being used, and by configuring WiFi routers at home to work on a 'free' or less congested channel, it is possible to find a considerable increase in internet connectivity.

iii. Management of the Electro-magnetic Spectrum

Section 56 of the Communications Act reads:

"56.(1) The ownership of the electro-magnetic spectrum in Gibraltar shall, by virtue of this Act, vest exclusively in the Government and the Minister shall be responsible for its management and control.

(2) The Minister may appoint, in writing, any person appearing to him to be suitable to exercise any of his powers, tasks, duties or functions in relation to the management of the electro-magnetic spectrum in Gibraltar."

This has been assigned to the Authority and, as part of its annual remit, carries out regular inspections of the electromagnetic spectrum using equipment capable of measuring unauthorised interferences, the power levels of equipment transmitting radio waves, and a number of other factors useful in determining the state of Gibraltar's electromagnetic spectrum usage.

As part of the management of the electromagnetic spectrum in Gibraltar, the Authority carries out compliance monitoring to ensure emissions from transmitters comply with international guidelines as set by the ICNIRP. As part of the licensing process, the Authority conducts annual site inspections on all mobile base station installations and routinely audits base stations throughout Gibraltar for compliance.

Full details of these inspections are available on the Authority's website.

All site inspections, spectrum audits and interference investigations are conducted by trained Authority staff, using industry-leading spectrum analysers that can identify the power, frequency and general direction of most transmitters within the 9 kHz – 22 GHz range. Due to the high density of buildings and Gibraltar's topography, at times, locating the source of an interference can be challenging.

The Authority, however, is not responsible for establishing the recommendations for exposure to electromagnetic emissions and has worked closely with the Ministry of the Environment to ensure that concerns from the general public regarding electromagnetic emissions from mobile base stations and other radio transmitters are addressed swiftly.

iv. Interference and Power-Level Monitoring

The Authority also carries out inspections, if concerns are raised by members of the public and organisations alike, where there is a suspected case of interference with, or misuse of, Gibraltar's electromagnetic spectrum, such as transmission at power levels beyond those recommended by the Authority.

In the period 2014/2015, the following matters were attended to:

a) Air Traffic Control Interference

NATS (Air Traffic Control) reported an interference issue whereby both staff on the ground and pilots could hear music and chatter on the frequency used to communicate between the aircraft and air traffic control. After an exhaustive search, the Authority identified what appeared to be two radio broadcasting stations in Morocco, located on the same transmitter tower, which had developed a fault. The harmonics from their main carrier signal in the FM radio broadcasting band were superimposing onto each other, causing constructive interference in the adjacent band used for Aeronautical Radio Navigation. The situation was referred to ANRT (Agence Nationale de Réglementation des Télécommunications, Morocco) and HACA (Higher Council of Audio-visual Communication, Morocco). It was dealt with swiftly and the interference issue was resolved.

A similar issue occurred in January 2016, but with two radio stations in Algeciras. On this occasion, the Jefatura Provincial (Cadiz) de Inspección de Telecomunicaciones Ministerio de Industria, Energía y Turismo in Spain was advised, and the matter

was resolved in a matter of days. Incidentally, a thunderstorm in February 2016 might have affected various transmitters located in the Upper Rock and as an indirect consequence, NATS reported elevated noise levels making it difficult to listen to the aircraft distress channel. The potential source, a faulty amplifier on one of the broadcasting FM frequencies was identified as not helping the situation. During a coordinated shutdown of the transmitter, an additional radio station from Morocco and two from Spain were identified as contributing to interference. The matter was referred to the Moroccan and Spanish Administrations respectively and the matter is being resolved.



b) GPA SES transmitter

The Authority continues to work closely with the Ministry for Environment and other Government Agencies to address issues relating to radiocommunications, especially perceived health risks from radio transmitters. Over the past year, the Authority has conducted several field strength and transmitter site audits at the request of concerned individuals or groups.

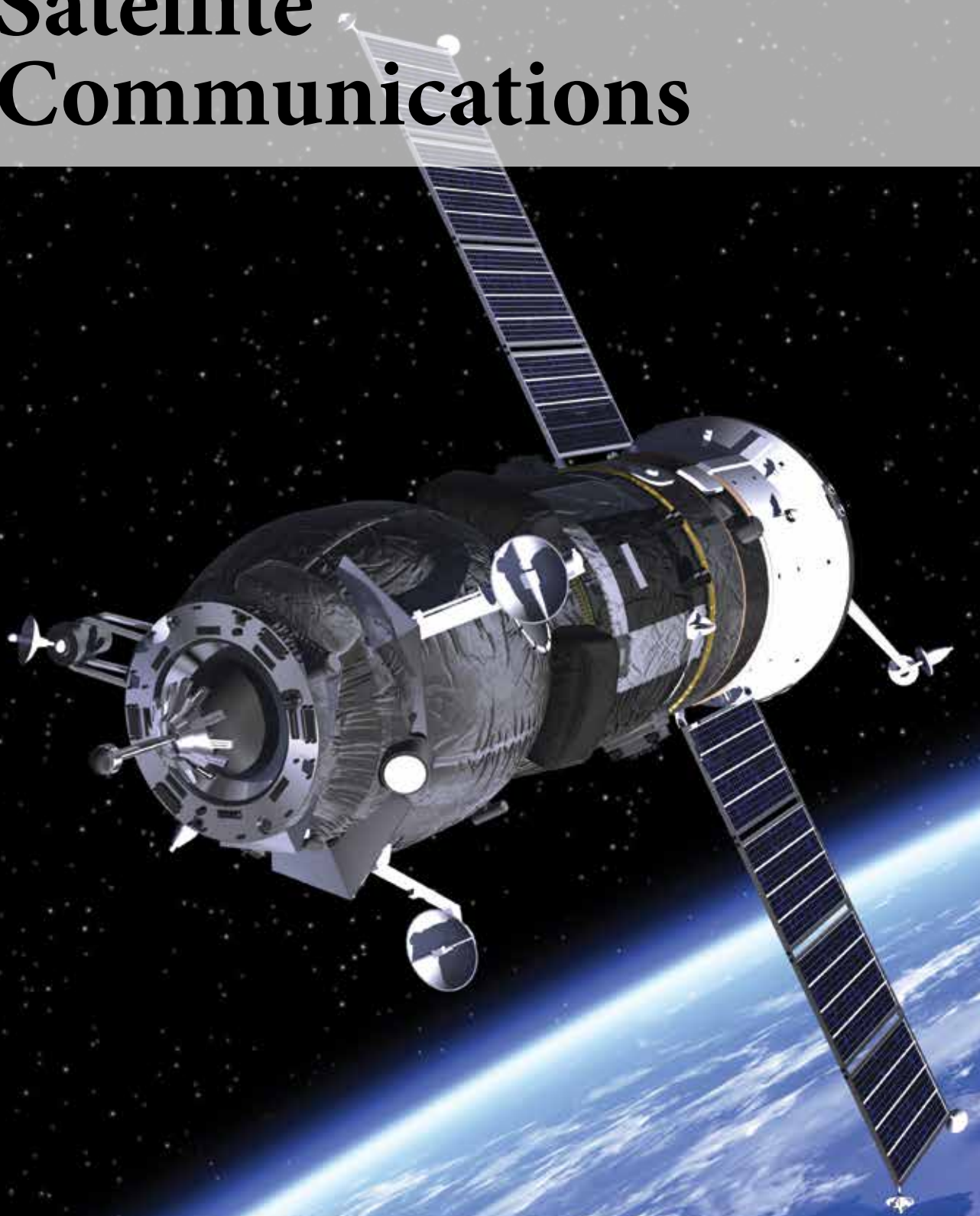
The new premises for the Gibraltar Port Authority being constructed at Windmill Hill in the immediate vicinity of the SES Teleport Facility is such an example. At the request of the Captain of the Port, the Authority conducted various field strength measurements whilst the transmitter was operational in order to ensure that the levels were safe and well within the established levels under ICNIRP guidelines.

v. Licensing of the Electro-Magnetic Spectrum

The Authority collects licence fees on behalf of Her Majesty's Government of Gibraltar and uses different licensing schemes to promote the use of technologies and maximise the use of the electromagnetic spectrum efficiently. The following table outlines the fees collected during the period 2015/2016 for each type of licence issued under Part VI of the Communications Act 2006.

Licence type	Total Collected
Accounting Authority Fees	£ 8,500.00
Aeronautical Ground Radio Station	£ 237.00
Citizen Band Radio Licence	£ 84.00
Fixed Link Licence	£ 5,245.00
GSM and UMTS Band Licence	£ 536,264.00
Paging Licence	£ 255.00
Private Mobile Radio Licence	£ 9,450.00
Port Operator Licence	£ 3,875.00
Radar Usage Licence	£ 129.00
Radio Amateur Licence	£ 372.00
Spectrum Usage Fee	£ 7,225.00
Ship Station Licence	£ 62,000.00
Wireless Dealers Licence	£ 3,000.00
Total	£ 636,636.00

Satellite Communications



Introduction

The Division is responsible for looking after the interests of the satellite industry, representing the Gibraltar-based operator SES Satellites (Gibraltar) Ltd ('SES-G') at international meetings and ensuring it complies with the International Telecommunication Union (ITU) Radio Regulations and all other international obligations.

The Division assesses each new filing and validates them before they are forwarded to the UK administration, for submission to the ITU. The Division also assists with the co-ordination of these satellite networks located in over 25 orbital slots.

This year, one of the Gibraltar filings was brought into use and is operating under the AMC-1 satellite at the 129W orbital location providing services to North America, parts of Central America and the Caribbean.

The Authority has this year issued an Outer Space Act licence for a new satellite called SES-9. The satellite was successfully launched by SpaceX on 4th March 2016. The SES-9 will replace the NSS-11 satellite, the first satellite launched into a UK/Gibraltar orbital slot which is now nearing its end-of-life.

International Coordination and Participation

i. Meeting with the Chinese Administration, Shanghai, China May 2015

An administration level coordination meeting between the UK and the People's Republic of China took place in Shanghai, China on May 2015. SES-G used this opportunity to address the outstanding coordination for long standing issues with existing networks as well as new networks that will provide replacement capacity to the well-established slots over Asia. On conclusion of the week long meeting, substantial progress was achieved.

Regulatory Matters

The following is an outline of the regulatory matters in which the Division has been involved in for the period 2015/16.

i. Satellite Coordination

The first regulatory step when submitting a new Fixed Satellite Service ('FSS') filing is the Advance Publication Information ('API'), which states the orbital location and the frequency bands. However, the World Radiocommunication Conference 2015 decided that as from 1st July 2016, submission of APIs would no longer be required. The regulatory clock that starts the 7 year timeframe within which to bring a satellite network into use, will now commence with the submission of the Coordination Request (CR/C). The CR/C contains all the detailed information on the services to be offered, the exact frequency assignments and the proposed coverage area. The ITU will use all this information to automatically generate and publish the APIs. This streamlining of the submission of filings for the un-planned bands will assist the ITU Bureau in processing these requests and in maintaining the relevant databases.

The filing procedure for satellites intended to provide a Broadcasting Satellite Service ('BSS') has not changed. These satellite networks will continue to operate within the constraints of the agreed planned bands and have a regulatory timeframe of 8 years.

The ITU will use the filed parameters to calculate the potential for interference these new satellites will cause to existing satellite networks, and this information is then published biweekly by the Radiocommunication Bureau on the International Frequency Information Circulars.

This starts off the long process of coordination with numerous exchanges of correspondence with satellite operators and through formal meetings between the relevant administrations to encourage the operator's to adjust their satellites so as to co-exist and avoid causing interference to each other.

Finally, before the end of the regulatory deadline, the filing must be notified to the ITU. This provides detailed information on the actual frequencies that are on-board the satellite which have been successfully coordinated. When the satellite is launched and/or drifted to its planned orbit slot, the filing is then brought into use and fully registered with the ITU.

Currently, SES-G has registered with the ITU 49 filings in 25 orbital slots around the geostationary orbit.

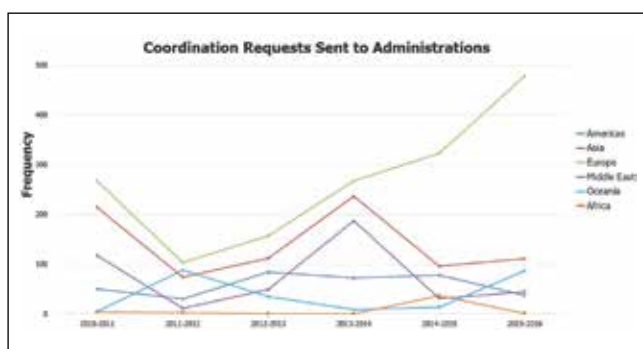
Due to seven new satellite filings submitted to the ITU and published this year, the Authority has recorded an additional 545 cases of potential interference that will require coordination with other foreign networks. SES-G's existing networks could be potentially affected by new incoming filings and the Authority has identified 757 cases for potential interference.

This year, the Authority has exchanged correspondence with the administrations of 57 countries and the charts below provides an indication of the coordination burden from different regions of the world.

a) Coordination Requests Sent by Administrations

The graph below shows yearly regional variations in the amount coordination triggered with foreign networks from new Authority filings. There was a decrease in coordination in the year 2011-2012 and a subsequent sharp increase in the following year and this is primarily as a result of the many filings that were submitted at the end of the 2011-2012 financial year. Consequently, many of the coordination requests from the potentially affected administrations were received in the 2012-2013 period and that accounts for the sharp rise in the coordination burden.

The period 2013-2016 saw a steady level of coordination for most regions, however, notably coordination with some administrations in Asia increased substantially. In the year 2015, there were six Authority filings published and over half of these were in the 108.2 key orbital slot.

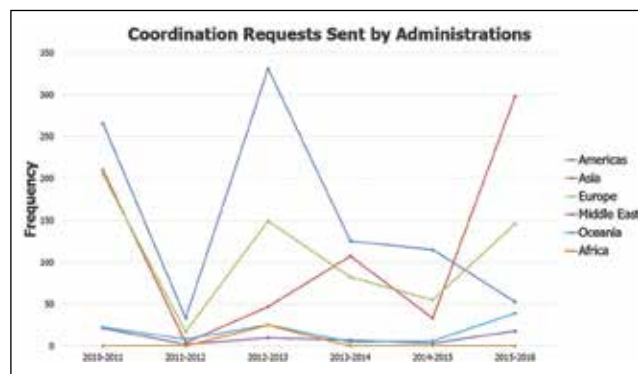


b) Coordination Requests Sent to Administrations

As administrations of other countries file for orbital locations near UK/Gib orbital slots, this increases the probability for harmful interference. The Authority must identify these interfering networks and inform the relevant administration via correspondence that coordination is required.

Whilst most regions have seen almost no increase

in coordination this year, the coordination burden with Europe has kept increasing linearly. This is as a result of some countries submitting a considerable number of filings near the UK/Gib filings. The French Administration alone accounts for 59% of the coordination exercises with Europe this year, with Germany and Holland summing it up to 83%.



ii. Procedures for the Management of Satellite Filings

Ofcom published a consultation document on the 28th April 2015, on proposed changes to procedures for the Management of UK Satellite Filings. The UK, as host administration, submits filings to the ITU on behalf of Gibraltar to procure internationally recognised orbital positions and frequency assignments for Gibraltar satellite networks. The last revision of the procedures was done by Ofcom in 2007. The Authority reviewed the proposed changes and provided feedback on behalf of the Gibraltar satellite industry to explain to stakeholders the proposed changes. Two members of the Satellite Division attended the workshop organised by Ofcom to discuss and identify how these changes would specifically affect Gibraltar satellite.

Ofcom will be hosting a meeting to inform stakeholders of the results of the consultation and the current and future practises on specific issues around UK satellite filings.

iii. Ofcom Strategic Review of Spectrum

Ofcom published a 'Call for Input' document on the 4th June 2015, asking stakeholders for input to Ofcom's strategic review spectrum used by the satellite and space science sectors. This would allow Ofcom to gather an understanding on the stakeholders' views of current and potential future spectrum demand by these sectors. Ofcom are also requesting information on trends in technology which may influence the uptake of spectrum use. This information will facilitate Ofcom with future spectrum policy decisions. The

Authority also provided extensive feedback on Gibraltar's satellite industry and expected future spectrum needs.

iv. World Radiocommunication Conference 2015

The World Radiocommunication Conference 2015 (WRC-15) was held in Geneva from the 2nd – 27th November 2015. The Conference was attended by 3,079 delegates from 162 countries to consider proposals to modify the Radio Regulations. The proposals to the Conference are based on extensive studies conducted by the International Telecommunications Union – Radiocommunication Sector (ITU-R) since the last WRC which was held in 2012. Europe coordinates the development of common positions (European Common Positions – ECPs) and associated briefs for each agenda item under consideration by the Conference. This activity is conducted through the Conference of Posts and Telecommunications (CEPT). The Authority participates in this process through the UK briefing groups established to contribute to the various CEPT Project Teams. The Authority had a delegate at the Conference primarily to cover the satellite issues.

The Conference covered a very wide range of issues but, for the Authority, the most important were Satellite issues, Digital Terrestrial Television (DTT) and Mobile Broadband (International Mobile Telecommunications - IMT).

a) Satellite Issues

The Conference discussed potential threats and opportunities for the satellite industry. The main threat to the satellite industry comes from proposals seeking additional frequency allocations to IMT on a global basis in the 3.4 – 3.8GHz band, and possibly in the 3.8 – 4.2GHz band. These frequency bands are used extensively for satellite communication services and sharing these bands on a co-primary basis is not seen as overly beneficial.

b) Digital Terrestrial Television

For the CEPT, the main objectives were to retain the existing allocation to broadcasting services - Digital Terrestrial Television (DTT) - in the band 470 – 694MHz, rejecting the identification of the band for IMT and to secure the band 694 – 790MHz for Mobile Broadband systems (IMT) on a globally harmonised basis. Both objectives were achieved at the Conference.

The future use of the 470 – 960MHz band will be reviewed at the WRC-23 Conference.

c) Mobile Broadband (IMT)

Whilst the IMT proponents were disappointed to not obtain wider access to the C-band spectrum due to strong opposition from the satellite industry, only securing the 3.4 – 3.6GHz band, there was an allocation of part of the L-Band spectrum (1427 – 1518MHz) to IMT and there is a substantive agenda item on the WRC-19 Conference to identify suitable allocations to IMT (5G) in specified bands between 24.25 – 86GHz (but as noted, excluding the key FSS band 27.5 – 29.5GHz).

v. Outer Space Act

The UK's Outer Space Act 1986 was extended to Gibraltar by the Outer Space Act 1986 (Gibraltar) Order 1996, which conferred licensing and other powers on the Governor of Gibraltar to ensure compliance with the international obligations concerning the operation of space objects and activities in outer space by individuals associated with Gibraltar. These powers, duties and responsibilities were delegated to the Authority, by the Delegation of Functions (Outer Space Act 1986 (Gibraltar) Order 1996) Notice 2001.

All the satellites licensed by the Authority are included in the UK's Registry of Space Objects and the Authority works closely with the UK Space Agency (UKSA), to ensure that the satellites are operated in compliance with international treaties and principles covering the use of outer space.

vi. SES-9 Satellite

This year, the Authority has issued an Outer Space Act licence for the SES-9 satellite. The satellite was manufactured by Boeing Satellites Systems and launched on a Space X Falcon 9 rocket.

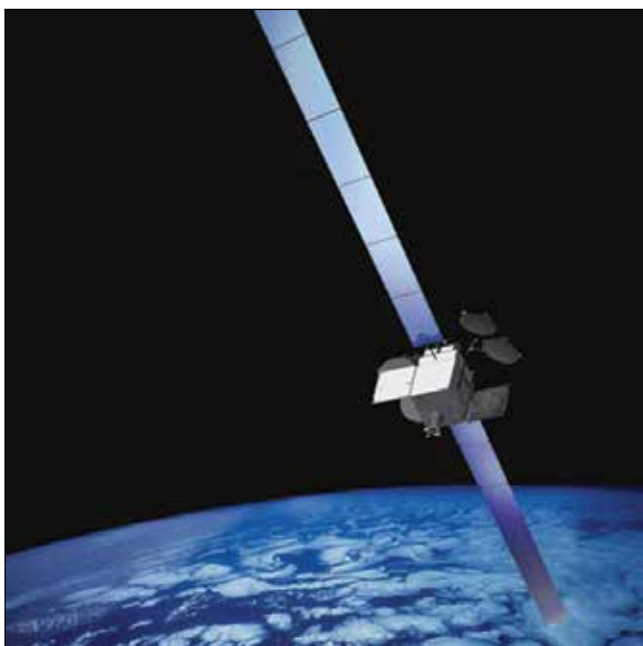
The original launch date was set for August 2015 but this was delayed due to a launch failure of a Dragon cargo spacecraft bound for the International Space Station. The vehicle broke apart less than two-and-a-half minutes after lift-off. An extensive investigation was carried out and all subsequent launches in the Falcon 9's manifest were put on hold. The specific fault was identified on a strut holding the propellant tank. This fault was rectified and the subsequent launch in December 2015 was a success.

However, at 5,271 kilograms, SES-9 was the heaviest geosynchronous payload to be carried by the Falcon 9 and its launch was further delayed. SpaceX had to wait for the optimal conditions to launch and the mission

had to be scrubbed four times during the countdown stage, due to propellant loading problems, high winds and even a vessel incursion into the exclusion range. On the fifth attempt on 4th March 2016 the SES-9 satellite was successfully launched to a geostationary transfer orbit and the satellite is currently using the on-board thrusters to reach its final destination at the 108.2°E nominal orbital location.

Currently, there are two other Gibraltar licensed satellites located at this orbital slot, SES-7 and NSS-11. The SES-7 satellite was launched in May 2009 and provides direct-to-home and VSAT services across South Asia and the Asia-Pacific region.

The NSS-11 satellite was the first satellite launched into a UK/Gibraltar orbital slot and has been operational for fifteen years. SES will be replacing the NSS-11 satellite with the new SES-9 satellite so as to expand their current capabilities and to provide direct-to-home broadcasting and other communications services in Northeast Asia, South Asia & Indonesia, as well as maritime communications for vessels in the Indian Ocean.



vii. Revenue Collected

During the period 2015/2016, the Authority renewed four Outer Space Act licences for SES-G for each of the satellites operating in space and which are controlled from Gibraltar. The total revenue received as a result of the issuing of these licences was £4,000. A further £1,000 was received as licence variation fees for these.

In the same period, two Teleport Facility Licences (TFL) were issued. A TFL, which is a Part VI licence under the Communications Act, authorises a licensee to establish and use specific earth stations for the purpose of

providing a link to specific satellites through the use, from an identified location, of specific frequency bands. The total revenue of received as a result of the issuing of these licences was £338,183.00.

Introduction

The Data Protection Act 2004 (“DPA”) designates the Authority as the Data Protection Commissioner (“Commissioner”). In its role as Commissioner, the Authority is able to carry out the functions assigned to it under Parts IV and V of the DPA which are the following:

- Provision of advice on data protection related matters
- Investigations of data protection related complaints
- Inspection of data controllers
- Awareness raising of issues related to data protection and privacy
- Maintenance of a Register of Data Controllers

During the 2015/2016 period, the Division has initiated a systematic approach to inspections that focus on particular areas of an organisation’s processing operations and has also introduced the use of undertakings as a new enforcement tool. In these cases, the offending data controller pledges to carry out corrective actions to ensure compliance with the DPA, in accordance with the circumstances of the case and requirements of the Commissioner. Examples of matters in which the Commissioner has deemed it fit to require a data controller to sign an undertaking are highlighted in the Case Studies section below. Undertakings help to demonstrate an organisation’s recognition of a contravention and their responsibility, as well as the commitment to review the arrangements and undertake remedial action to ensure compliance with the DPA.

The Division’s activities in respect of activities raising awareness have also continued to develop, with further plans for these activities for organisations and the public in general significantly advanced.

Internationally, the Division has continued its contributions to International Working Groups on Cooperation and Digital Education where it has been an active member despite the relatively small size of the Division.

International Participation

An important part of the Division’s role is to liaise with regulators in other jurisdictions with regards to the development of practices in the regulation and enforcement of data protection.

The Division has participated in various international events and projects, and also liaises with other regulators internationally to coordinate, cooperate, and align regulatory activity where possible and appropriate, to maximise its efficiency and effectiveness, and contribute to developing practices.

i. British, Irish and Islands Data Protection Authorities Annual Meeting, June 2015

This meeting is held annually and the Division has been attending for the past nine years.

The meeting was hosted by the Channel Island’s Data Protection Commissioner in Guernsey, and was attended by data protection authorities from the UK, Ireland, Isle of Man, Channel Islands, Malta, and Gibraltar.

The meeting takes the form of a round table discussion on current data protection topics. Amongst other things, the following topics formed part of the discussions:

- The EU General Data Protection Regulation (the “GDPR”): in view of progress made on the GDPR, the DPAs discussed key points of the drafts and potential areas for collaboration during the transition period following the adoption of the GDPR.
- The Commonwealth Heads of Government Meeting (“CHOGM”): ahead of the CHOGM meeting to be held in Malta during the final quarter of 2015, the DPAs discussed the importance of privacy and data protection for the digital society across the commonwealth, including a submission to Governments ahead of the meeting.
- Case law developments in the EU: In particular, DPAs deliberated on the use of surveillance systems and the domestic purposes exemption following the CJEU’s judgement in Case C-212/13 Rynes, where an individual’s use of CCTV to record areas around their property was held to process personal data under the DPA and was not exempted by the household exemption, which relates to personal data processed

'in the course of a purely personal or household activity'.

- Freedom of Information ("FOI"): At the time of the meeting, FOI legislation was in the process of being implemented in some of the jurisdictions that attended the meeting. The authorities that already regulated FOI, provided an overview of their regulatory regimes, highlighting issues that they considered key according to their experience and provided recommendations for a more effective FOI regime, such as the implementation of "Central Processing Units" by Governments.



ii. 38th International Conference of Data Protection & Privacy Commissioners, Amsterdam, October 2015

The Authority is an accredited member of the International Data Protection & Privacy Commissioners Conference, which this year held its 38th International Conference. The conference brings together data protection and privacy commissioners from around the world, and other important information rights' organisations such as the Council of Europe and the European Data Protection Supervisor.

At the event, Commissioners discuss data protection issues, share knowledge, and work collectively on current and developing issues. Amongst other things, the International Conference, as the Global Group of Commissioners, adopts resolutions that set out the International Conference's resolve in relation to particular matters.

Following its acceptance in 2014, this year the Conference launched the Global Cross Border Enforcement Cooperation Arrangement. Together with the data protection authorities of Australia, Canada, British Columbia, Hungary, Isle of Man, Netherlands, and the UK, the Gibraltar was amongst the group of DPAs signed up to the Arrangement during its launch. The Arrangement aims to facilitate enforcement cooperation and further data protection authorities have signed up to participate since October 2015. Amongst other things, it addresses information

sharing, promotes common understandings and approaches to cross-border enforcement cooperation, and encourages authorities to coordinate cross-border cooperation and to assist other authorities. The Arrangement does not replace other mechanisms for cooperation.

Also in relation to International Cooperation and Enforcement, the Authority participated in an event organised by the Global Privacy Enforcement Network, where a representative of the Division formed part of a panel that discussed practical methods of international cooperation.

Other key events at this year's International Conference were:

- Digital Education: The Digital Education Working Group, in which the Commissioner participates in, reported back on progress regarding the Action Plan for digital education that was adopted by the International Conference in 2014. The key actions reported on referred to the successful implementation of a shared platform between DPAs to host educational material and initiatives, the findings of an assessment of awareness raising methods and tools currently used by data protection authorities around the globe, and progress on the encouraged use of competitions by DPAs to raise awareness of privacy issues.

The Working Group also reported its aim to complete a useful guide for data protection authorities wanting to organise a competition and consider the feasibility of an international competition in various countries arranged by the data protection authorities.

- Genetics and Health Data: Together with the involvement of the Columbia University in New York and the University of Sheffield who delivered presentations at the event, an in-depth discussion was held on the challenges to data protection and privacy from developing technology in relation to Genetics and Health Data. While there are clearly many benefits that do and will continue to stem from individuals' voluntarily contributing their genetic information, the use of genetic data could lead to a variety of risks, such as: hacking and disclosure of intimate familial relationships, as well as ethnic discrimination, denial of services because of genetic predispositions, and other malicious uses.
- Security and intelligence: The unprecedented level of public discussion of the activities of intelligence and security agencies worldwide, together with the changing security environment with potential for terrorist activity in all countries has raised a number of challenging issues for Data Protection Authorities.

Communities look to data protection authorities for privacy leadership in this context regardless of strict boundaries of jurisdiction. Where data protection authorities do not have a direct enforcement role in respect of intelligence and security activities, most still have roles as ombudsmen, auditors, consultants, educators, negotiators and policy advisers. Data protection authorities met to discuss how they can respond to the new and changing environment. They heard that the public should expect intelligence and security agencies to observe the rule of law, pursuant to appropriate regulation, and to exercise restraint in the use of intrusive powers.



iii. The Grey Areas Between Media Regulation and Data Protection Workshop, Strasbourg, December 2015

As an authority that regulates both broadcasting and data protection, the Authority was invited to participate in the workshop on “The Grey Areas Between Media Regulation And Data Protection”, organised by the European Audiovisual Observatory and the European Platform of Regulatory Authorities.

The event brought together experts, regulators, industry and representative of users for an interactive discussion on selected topics of interest. The workshop focused on media-related issues like pluralism and freedom of expression, and an exploration of some of the grey areas between media regulation and data protection, where issues were tackled from four different angles:

- setting the scene and identifying the important interconnections between data protection and media regulation
- the impact on freedom of expression
- the impact on pluralism of information and editorial responsibility
- the cooperation between the different stakeholders’

data protectors, media regulators, broadcasters, manufacturer and users.



iv. 9th Computers, Privacy & Data Protection Conference, Brussels, January 2016

The CPDP conference is a non-profit multidisciplinary conference that gathers academics, lawyers, practitioners, policy-makers, industry and civil society from all over the world, where ideas, emerging issues and trends are discussed. Throughout the 3 day conference a broad range of topics were discussed including the risk based approach to regulation proposed under the GDPR, the Internet of Things and the role of Data Protection Authorities.

v. International Working group on digital education meeting & Arcades Conference, Barcelona, March 2016

The International Working Group on Digital Education, which the Authority participates in, met to discuss progress on the 2015-16 action plan and the next steps.



The meeting was held alongside the final conference of the ARCADES project. The ARCADES project involved extensive work between data protection authorities

and teachers in Poland, Hungary, and Slovenia, that aimed to introduce the issues of personal data protection in schools. The various awareness raising models were showcased at the conference.

vi. International Enforcement Cooperation event, Manchester, March 2016

This event, held annually, focuses on the promotion of international cooperation between DPAs for effective international enforcement. This year, data protection authorities focused their discussions on the Global Cross Border Enforcement Cooperation Arrangement that was launched in October 2015 and related Enforcement Cooperation Handbook. A series of cooperation workshops were also held for data protection authorities to work through case studies and corresponding practicalities of international cooperation.

Additionally, data protection authorities discussed the importance of users having control of their information, and possible ways in which to promote easy-to-use mechanisms for individuals to express their decisions regarding choices in respect of a product's use and consent.

Regulatory Matters

The following is an outline of the regulatory matters in which the Division has been involved in for the period 2015/16.

i. Measured Activity

The Division's three main functions are inbound enquiries, investigations and inspections, and these continued in accordance with the Division's expectations.

• Inbound Enquiries

This year saw a slight increase in inbound enquiries when compared to last year's total of 126. Albeit a slight variance, the total number of enquiries was within expectations. The total amount of enquires was broken down as follows:

Inbound enquiries from the Public Sector: 48

Inbound enquiries from the Private Sector: 71

Inbound enquiries from the Individuals: 13

It is worth noting that the number of enquiries from individuals nearly doubled in comparison to last year. A review of the figures over the past years shows that inquiries from this group fell but has risen again this year. This could potentially indicate a renewed interest in data protection or increase in awareness as a result of the Division's Control Your Privacy campaign. The Division will monitor developments in the forthcoming year.

• Investigations

Under section 25 of the DPA, the Commissioner is empowered to carry out investigations to ensure compliance with the DPA, irrespective of whether a complaint has been made. An investigation is any process which sees the Division taking action either as the result of a complaint or as a result of information obtained as part of the day to day function of the Division and which raises doubts as to whether the DPA is being complied with.

"Action" in this case may range from the making of an enquiry to a data controller in order to determine compliance with the DPA, to the issuing of an Information or Enforcement Notice in accordance with sections 26 and 27 of the DPA. By applying this formula, an investigation is different from an inspection in that an inspection may be undertaken without a complaint or doubt about compliance existing. Investigations and inspections, however, are commenced by virtue of the powers granted to the Commissioner under section 25 of the DPA.

The period 2015/16 saw the Division undertake 23 investigations. Please refer to the Case Studies section below for a review of some of the investigations which can be published. Please note that details about some investigations may not be published due to commercial sensitivity, or the risk of identifying an individual.

• Inspections

In order to monitor compliance with the DPA, the Division carries out an inspection programme during the course of the year. An inspection can be carried out by virtue of section 25 of the DPA and its aim is to check data controllers in order to ensure their compliance with the various aspects of data protection.

This year, 14 inspections were completed, effectively ensuring the continued operation of an inspections programme. Planning on the further development of the inspections programme has also been undertaken, with a view to introduce a systematic approach to inspections that focus on particular areas of an

organisation's processing operations. The Division aims to implement its new inspection arrangements during the coming year.

During the period 2015/2016, 14 inspections were carried out on the following sectors and data controllers, with further inspections in progress at the time of writing:

a) Postal sector inspections

The Division selected Gibraltar's postal services sector, which includes couriers, as one of the sectors to inspect during the inspection programme for the year 2015/2016.

The following list provides a summary of key points established:

The postal services sector process both employee and customer data both electronically and physical. However, the main bulk of customer data processed are of companies rather than individuals as the main services provided by the postal services sector are used mainly by companies.

The employee data processed by the postal services sector is minimal with various operators stating that the small size of the organisation, limited employee data is kept. From the data identified, the most significant records were financial data relating to employees such as salaries and wages, which were processed with the assistance of an accountant under contract.

All of the operators inspected had their warehouses located at the Air Terminal building, and these warehouses all have CCTV systems in place for security purposes. Two operators were found to provide insufficient notice to the public, via the use of signs, about the existence and purposes of the CCTV systems. These two operators agreed to review and modify their arrangements to comply with the requirements of the DPA.

Four of the operators implemented internal procedures in accordance with the global governance policies of the larger group enterprise that they belonged to, which were reviewed regularly by the group. On the whole, the Division welcomed that operators documented their policies and procedures which contributed to good data protection accountability and governance.

Overall, the postal services sector demonstrated a good understanding of the DPA's requirements and satisfactory compliance arrangements.

The six operators inspected were:

- Al International Couriers Ltd
- East Gate Ltd (TNT)
- Matrix Logistics Solutions Ltd (DHL)
- International Communications Ltd (MRW)
- OCS Logistics Ltd (UPS)
- Sefat Distributions

b) Car dealerships sector

The Division selected Gibraltar's car dealerships sector, as one of the sectors to inspect during the inspection programme for the year.

The following list provides a summary of key points established in relation to the inspections:

Car dealerships process both employee and customer data. To note is that of the eight operators inspected, four processed personal data via a manual filing system without any electronic processing of personal data. The other four operated a system that combined both physical and electronic records.

In accordance with legal requirements, all operators share information about customers with the Driving Vehicle and Licensing Department in relation to the sale of a vehicle.

Six car dealerships use customer data to periodically contact customers to remind them about servicing requirements. This process is considered part of customer service and in any event, consent for these communications is obtained from individuals at the time vehicles are purchased.

Six car dealerships use a CCTV system for security purposes at their premises. In all circumstances, the car dealerships were found to give adequate notice about the processing of images via CCTV and their purpose to individuals.

Overall, the car dealerships sector demonstrated a good understanding of the DPA's requirements and were found to have satisfactory compliance arrangements in place. Only one issue was identified where a car dealership did not have a data retention policy in place. In this instance, the car dealership agreed to review and modify its arrangements to ensure compliance with the DPA.

The eight car dealerships inspected were:

- Altimore Trading Co Ltd
- AM Capurro & Sons Ltd
- Bassadone Motors Ltd

- Gedime Motors Ltd
- Lucas Imossi Motors Ltd
- Motorama Ltd
- Prime Auto Ltd
- Rock Motors Ltd

c) Primary Care Centre, Gibraltar Health Authority.

As a result of deficiencies identified in the organisational and security measures of the Primary Care Centre in an investigation undertaken this year, the Division initiated an inspection of the Primary Care Centre's compliance arrangements. It is important to note that this inspection forms part of the Primary Care Centre's commitment to review its security measures to ensure compliance with the DPA. As part of the review, the inspection aims to identify any contraventions of the DPA and to request remedial action, where appropriate. This process should be seen as an aid to the Primary Care Centre in ensuring that its operations are compliant with the provisions of the DPA. In contrast to other inspections, this inspection is expected to be more detailed and extensive, involving several meetings and visits to the Primary Care Centre and extending over several months.

d) Driver & Vehicle Licensing Department.

As a result of deficiencies identified in the organisational and security measures of the Driver and Vehicle Licensing Department in an investigation undertaken this year, the Division initiated an inspection of the Driver and Vehicle Licensing Department's security measures. It is important to note that this inspection forms part of the department's commitment to review its security measures to ensure compliance with the DPA.

e) Dental sector

In accordance with issues identified in the dental sector during the inspection programme for the year 2014/15, the Division has prepared a plan to revisit the sector in Q2 of 2016. The issues identified related to organisational and technical security measures and the retention of personal data.

ii. Global Privacy and Enforcement Network Sweep, May 2015

Together with 28 other privacy enforcement authorities from around the world, the Division, reviewed websites and mobile applications ("apps") to identify issues relating to children's privacy.

The project raised concerns about 41% of the 1,494 websites and apps considered, particularly around how much personal information was collected and how it was then shared with third parties.

Results included:

- 67% of sites/apps examined collected personal information.
- Only 31% of sites/apps had effective controls in place to limit the collection of personal information from children. Particularly concerning was that many organisations whose sites/apps were clearly popular with children, simply claimed in their privacy notices that they were not intended for children, and then implemented no further controls to protect against the collection of personal data from the children who would inevitably access the app or site.
- Half of sites/apps shared personal information with third parties.
- 22% of sites/apps provided an opportunity for children to give their phone number and 23% of sites/apps allowed them to provide photos or video. The potential sensitivity of this data is clearly a concern.
- 58% of sites/apps offered children the opportunity to be redirected to a different website.
- Only 24% of sites/apps encouraged parental involvement.
- 71% of sites/apps did not offer an accessible means for deleting account information.

The Commissioner considered the results of this year's Global Privacy Enforcement Network ("GPEN") Privacy Sweep worrying, in particular as children are in the process of developing their physical and psychological maturity, and therefore require more protection than other persons; this principle applies to data protection.

The Commissioner issued advice stating that data controllers need to act fairly in a manner that recognises the vulnerability of a child, and only process personal data that is adequate, relevant and not excessive, respecting the best interests of the child.

The Commissioner will work on the issues identified with its counterparts internationally. Authorities will consider whether further action is needed against the specific sites and apps reviewed, and whether or not there are cases that should be addressed by coordinated international action.

The project did find examples of good practice, with some websites and apps providing effective protective controls, such as parental dashboards, and pre-set avatars and/or usernames to prevent children inadvertently sharing their own personal information. Other good examples included chat functions which only allowed children to choose words and phrases from pre-approved lists, and use of just-in-time warnings to deter children from unnecessarily entering personal information.

iii. Control Your Privacy Campaign

This year the Control Your Privacy campaign entered its third year since its launch. The campaign has progressively developed and a yearly framework has been established that consists of awareness raising activities that target the four groups identified in the awareness raising strategy (students, teachers, parents, and organisations).

Notwithstanding that awareness raising activities have been initiated focusing on the four target groups identified, it is worth noting that the activities aimed at students and teachers are the most developed. The initiative with schools now involves an annual programme that includes the delivery of presentations to students, followed by question and answer sessions and a survey. This year the Division recorded the participation of circa 900 students between the ages of 11 and 21, with the involvement of all middle schools, both comprehensive schools, and the College of Further Education.



With regards to parents and the general public, the Division has established its annual Data Protection Day at the Piazza, where officials actively engaged with the public to raise awareness of issues relating to data protection and privacy. This year, the event was held on the 22nd September 2015 and was supported by other organisations who attended the event, namely Childline, the Citizen's Advice Bureau, the Office of Fair Trading, the Public Services Ombudsman, the Royal Gibraltar Police, and the Youth Service. The Division

was also involved in two further public events in the city centre; an Internet Awareness day organised by the Citizens Advice Bureau, and a further awareness raising event organised by Childline.



Additionally, the Division uses the Authority's social media platform to disseminate advice and information and engage with the general public. Further initiatives that focus on organisations are data protection workshops or presentations that the Division arranges upon request. In this respect, the Division arranged awareness raising events with two departments of the Government of Gibraltar, and planning for further sessions has been agreed with the Government's Human Resources Department.

The Division's engagement with the target groups as well as other important stakeholders is fundamental as the Commissioner considers that it is necessary to act in association with all relevant stakeholders, as raising awareness of privacy issues is a shared responsibility issue.

iv. Register of Data Controllers

The DPA requires the Commissioner to maintain a register of data controllers. The Register contains details of data controllers in Gibraltar including contact details and details pertaining to the processing operation of personal data carried out by the data controller.

During the period 2015/16, in total 56 new applications for registration were received. This equated to a revenue of £1120.00. A further £100.00 in revenue was received as a result of major amendments by data controllers to their register entries.

v. The Opt-Out Register for Fax and Telephone

In 2013 the Commissioner launched the opt-out register for fax and telephone based on provisions found in the Communications (Personal Data and Privacy) Regulations 2006. This service is available to any individual or company who does not want to receive direct marketing calls and/or faxes.

No new entries were recorded this year. The number of registered entries remains at 7. The low numbers on the register coupled with the rare complaints received in respect of unsolicited marketing calls, suggests that where organisations in Gibraltar use direct marketing calls as part of their operations, they do so using compliant and appropriate controls. There is no evidence to suggest otherwise.

vi. Case Studies

Please note that details about some investigations cannot be published due to commercial sensitivity or the risk of identifying an individual. What follow are examples of investigations carried out which, in all the circumstances, can be published without the risk of identifying individuals.

i. Biometric System at The Anchorage Held to Contravene The DPA

A complaint was received by an individual against The Anchorage Management Limited ("TAML"). The Complainant alleged that the processing of personal data through the implementation of a biometric data system (the "System") at The Anchorage residential gymnasium (the "Gym") was excessive and disproportionate when other less intrusive alternatives could be pursued.

The Commissioner undertook an investigation, whose key points can be summarised as follows:

The Complainant is a resident at the Anchorage. The Gym is for the exclusive use of residents at the Anchorage, who pay for its upkeep.

Following engagement with the Division, TAML confirmed that the purpose of the System was to control access and prevent non-residents from entering the Gym. A considerable risk of unauthorised use of the Gym by non-residents had been identified, which resulted in unfair costs to residents at the Anchorage. Various methods, which included installation of CCTV cameras, use of a key code system and key cards were found to be ineffective to control access to the Gym by non-residents.

The System collects limited points of a finger print which are recorded against the name of a resident, apartment number, telephone number and timestamps showing entry into the Gym. This is regarded as personal data, which is regulated by the DPA.

Section 7(1)(a) of the DPA, provides for the legitimate processing of personal data where an individual has given unambiguous consent to the processing. The Complainant did not consent for his personal data to be processed by TAML by the System and therefore consent could not be relied on.

Section 7(1)(e) of the DPA provides for the legitimate processing of the personal data where it is necessary for the purposes of the legitimate interests pursued by the data controller, except where such interests are overridden by the privacy rights of the data subject. In view of the above, the Commissioner determined that TAML had a legitimate interest in the implementation of access controls for the Gym and the System was effective in meeting the need to access control. However, section 6(1)(c)(iii) of the DPA states that processing of personal data needs to be adequate, relevant and not excessive in relation to the purpose for which its collected. Although TAML had been unsuccessful at using alternative methods to control access to the Gym by non-residents, the Commissioner determined that these less intrusive methods could be effective and therefore, the System appeared to be excessive, in contravention of section 6(1)(c)(iii) of the DPA.

Consequently, the processing of personal data did not meet the criteria for the legitimate processing of personal data under section 7(1) of the DPA, and therefore the processing by the System was in contravention of the DPA.

Following the Commissioner's determination, TAML modified and replaced the System as the only means of access to the Gym by introducing an alternative method of entry, namely a card reader, which users could use if they would not give consent for the use of the biometric system. Further, they confirmed that letters were issued to all residents informing them of this alternative means of access.

ii. Unauthorised use of Personal Data obtained unlawfully from Employer

A complaint was made against an employee of the Complainant (the "Employee"). It was alleged that whilst working for the Complainant, the Employee had obtained and processed personal information

pertaining to the Complainant's employees and third parties from the Complainant's files (the "Documents") for personal matters that were outside of the Employee's role specification.

The Commissioner undertook an investigation, whose key points can be summarised as follows:

The Employee used her position to, without authorisation, make copies of the Documents for a personal pay claim against the Complainant. The Documents included a wide range of personal data relating to employees and third parties, such as role specifications, salaries, holidays, employee vehicle details, timesheets, addresses, terms of employment, and other contractual information (the "Personal Data").

In obtaining and using the Personal Data, the Employee became a data controller. However, the Employee obtained and used the Personal Data without the consent of the Complainant and/or the data subjects and therefore did not comply with section 6(1) of the DPA. Consequently, the Personal Data was not obtained fairly and lawfully. Furthermore, the processing of the Personal Data did not meet any of the conditions listed in subsection 7(1) of the DPA making data processing legitimate and therefore was a contravention. The Commissioner also concluded that the obtaining and use of the personal data without the Complainant's consent was in contravention of section 12 of the DPA, and therefore an offence.

The Commissioner requested that the Employee cease any further processing of the Personal Data and to immediately destroy all copies of the Personal Data in her possession. As a result of the Employee's failure to comply with the Commissioner's request, the Commissioner issued an Enforcement Notice (the "Notice"), requesting that the Employee cease processing the Personal Data in the Documents, destroy all copies held and provide written confirmation to the Commissioner once this was undertaken. The Notice was appealed to the Magistrates Court of Gibraltar by the Employee. However, prior to the hearing in the Magistrates Court, the Commissioner received written confirmation from the Employee advising that the Personal Data had been shredded. In light of the confirmation, the Commissioner cancelled the Notice and the Employee withdrew the appeal.

iii. Primary Care Centre Found not to have Appropriate Security Measures

An incident was reported to the Commissioner where an individual, on two separate occasions, had available

to him, unsupervised access to an unlocked computer and documentation in the reception desk of the Audiology and Dental Care Department, located in a public area of the Primary Care Centre ("PCC").

The Commissioner undertook an investigation, whose key points can be summarised as follows:

The unsupervised access was for a substantial period of time, and related to unlocked computers and documentation displaying health related information i.e. sensitive personal data, relating to patients of the clinics.

The PCC process personal data in accordance with the Gibraltar Health Authority's Data Protection Policy (the "Policy"). The Policy makes extensive references to the DPA and includes statements of intent to comply with the DPA. However, the PCC was unable to demonstrate that it operates in conformance with the Policy. Furthermore, the Commissioner found that the Policy had not been reviewed since March 2009 and that the PCC had no active arrangements in place to ensure that the Policy remains adequate and up to date.

The Commissioner determined that the PCC processed personal data in contravention of section 6(1)(d) of the DPA which requires data controllers to ensure that appropriate organisational and technical security measures are taken to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access and against all other unlawful forms of processing.

Following the Commissioner's decision, the PCC signed an undertaking committing to review its organisational and technical security measures to ensure the protection of personal data that it processes, in accordance with section 6(1)(d) of the DPA, that the said measures would be documented in a written policy, and that the Policy would be submitted to the Commissioner, together with a plan for its effective implementation.

iv. Parking Permits Issued by The Ministry For Housing Processed Excessive Information

A complaint was received against the Ministry for Housing (the "Ministry"). The Complainant alleged that the parking permits (the "Permits") issued by the Ministry for the parking spaces at Mid-Harbours Estate disclosed excessive personal information.

The following summarises the key points of the investigation undertaken by the Division:

Permits are issued for each vehicle and need to be displayed and visible on the corresponding vehicle so that employees of the Ministry can regulate the use of the Mid-Harbours garage. The Permits display information such as the address of the permit holder, vehicle registration, parking space and permit number.

Under the Data Protection Act 2004 (“DPA”), personal data is any information that relates to an individual. The address of a permit holder is personal data and therefore the display of the address on a permit is regulated under the DPA.

Section 6(1)(c)(iii) of the DPA states that processing of personal data needs to be adequate, relevant and not excessive in relation to the purpose for which it’s collected. To this extent, the Commissioner determined that given there were other less intrusive measures to regulate the use of the garage at Mid-Harbours, the processing of the addresses by displaying them on the permits was excessive and did not conform with subparagraph section 6 (1) (c)(iii) of the DPA. Consequently, the processing of personal data did not meet the criteria for the legitimate processing of personal data under subsection 7(1) of the DPA, and the displaying of the address on the Permits was in contravention of the DPA.

Following the Commissioner’s determination, the Ministry signed an undertaking in relation to the Permits to ensure that they were replaced with permits that did not display the address of permit holders.

v. Unauthorised use of Personal Data obtained Unlawfully from Employer

Information was reported to the Division that suggested that an individual had unlawfully obtained and further processed, a document containing personal data (the “Document”) from their previous employer.

The following summarises the key points of the investigation undertaken by the Division:

Following engagement with the organisation that had employed the individual, the organisation confirmed that the document derived from them. The organisation further explained that as part of their role, the individual had authority to access, obtain and disclose information internally to relevant individual’s for employment purposes.

Based on the information obtained, the Commissioner determined that document had been taken home with authorisation of the employer as part of arrangements for employees to work from home,

at the time. The Commissioner found no conclusive evidence to determine that the document was further processed in contravention of the DPA.

vi. Failure to Comply With A Subject Access Request by the GHA

A complaint was received by an individual against the Gibraltar Health Authority (“GHA”). The Complainant alleged that the GHA had failed to respond to a Subject Access Request (“SAR”) he submitted, asking for information on how much he was owed in arrears in relation to changes to his role at the GHA.

The following summarises the key points of the investigation undertaken by the Division:

Under section 14 of the DPA a data subject has the right of access to personal data which is held about him by a data controller. Section 14(4) of the DPA provides that a data controller must comply with a SAR within 28 days. The established arrears of the Complainant is personal data, and therefore information about established arrears owed to the complainant, if held, is regulated under the DPA.

The GHA replied to the Complainant’s SAR within the required 28 day period established in the DPA. The response from a senior employee of the GHA stated that he had not been directly involved in negotiations and appeared to suggest that the amount of arrears owed had not been established.

The Commissioner concluded that the GHA replied to the SAR within the required 28 day period established in the DPA and did not have information about arrears owed to the Complainant. However, the response to the Complainant was considered to be unclear, and did not specifically state whether the GHA (rather than the senior employee of the GHA), as the data controller, did not hold information on arrears. Therefore, the GHA’s response to the SAR did not comply with section 14 of the DPA.

The Commissioner recorded the GHA’s contravention of the DPA, and engaged with them to review their arrangements, improve compliance, and minimise the risk of future contraventions of the DPA. The Commissioner will continue to monitor the GHA’s activities, as part of its supervisory regime.

vii. Driver & Vehicle Licensing Department Security Breach

An incident was reported to the Commissioner where documentation from the Driver & Vehicle Licensing

Department (“DVLD”) was found on the ground in the public area of Sir Herbert Miles Road, close to the location of the DVLD. The documentation contained personal data pertaining to several individuals, and consisted of an email between employees of the DVLD, a letter from DVLD to a third party company and a copy of Form 21A, including a copy of a local driving licence.

The Commissioner undertook an investigation which concluded that the DVLD lost the Documentation in contravention of section 6(1)(d) of the DPA. Following the Commissioner’s decision, the DVLD signed an undertaking committing to review its organisational and technical security measures to ensure the protection of the personal data that it processes, that the said measures would be documented in a written policy, and that the said policy would be submitted to the Commissioner for further review.

viii. Complaint Against Electraworks Limited in Relation to the Right to Object to the Processing of Personal, Electronic Marketing, and the Right of Access to Personal Data

A complaint was received by an individual against Electraworks Limited (“Electraworks”). The Complainant alleged that Electraworks continued to process his personal data in an unauthorised manner despite his request for the deletion of his personal data on his gambling account with Electraworks. The complainant further alleged that Electraworks transferred his personal data to a third party and as a result, was receiving electronic marketing by email, and that Electraworks had failed to comply with a subject request.

The Commissioner established that although an individual has a “right to object” under the DPA, the right applies where the processing is undertaken for any of the purposes outlined in section 16(2) of the DPA, and where such processing is likely to cause significant and unwarranted distress. In this case, these conditions were not met. Furthermore, section 16(3) of the DPA states that the right to object does not apply if the processing is necessary for compliance with a legal obligation to which the data controller is subject. These conditions were found to apply in this case.

With regards to the alleged transfer of the complainant’s personal data, Electraworks stated that it had not disclosed the complainant’s personal data to any third parties and the Commissioner found no conclusive evidence that personal data had been transferred in contravention of the DPA. In respect of the alleged electronic marketing, no evidence was submitted that Electraworks or any third party had

conducted electronic marketing. The Complainant only submitted two automated emails which related to the operation and management of the Account and did not constitute direct electronic marketing.

The Complainant also alleged that Electraworks failed to comply with a Subject Access Request (“SAR”) submitted by the Complainant requesting information on the personal data stored about him that was not required for legal or tax purposes. Under section 14 of the DPA a data subject has the right of access to personal data which is held about him by a data controller. Section 14(4) of the DPA provides that a data controller must comply with a SAR within 28 days. Evidence was submitted to the Commissioner which showed that Electraworks responded to the SAR, however, not within the 28 day period established under section 14(4) of the DPA. Therefore, Electraworks’ response to the SAR did not comply with section 14 of the DPA.

The Commissioner noted Electraworks’ contravention in relation to compliance with the SAR, and shall continue to monitor the Electraworks’ activities, as part of its supervisory regime.

ix. Individual Unlawfully Obtains Personal Data from a Local Company (Security Breach)

A local company voluntarily contacted the Division to inform of a data breach where the full names and corresponding telephone numbers of 68,687 customers were illegitimately copied and obtained by an employee who was allegedly contacting other companies to sell the data.

The following summarises the key points of the investigation undertaken by the Division:

The data breach was reported to Coral via an anonymous letter and USB stick, which contained a copy of the personal data. The letter alleged that the individual was an employee of a third party company based in the United Kingdom which provided marketing services to local company. The individual, by virtue of his role at the Company, had access to the personal data.

Section 6(1)(a) of the DPA requires data controllers to process personal data fairly and lawfully. Furthermore, section 6(1)(d) of the DPA requires data controllers to ensure that appropriate organisational and technical security measures are taken to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and against all other unlawful forms of processing.

In obtaining and processing the Personal Data, the individual became a data controller. However, his processing of the personal data did not comply with section 6(1)(a) of the DPA and therefore, the personal data was not obtained fairly and lawfully. Furthermore, the processing of the personal data did not meet any of the conditions listed in subsection 7(1) of the DPA. The obtaining and use of the personal data did not fulfil the criteria for making data processing legitimate in accordance with section 7 of the DPA, and, therefore, contravened the DPA.

The Commissioner also concluded that the individual obtained and used the personal data without the data controller's consent and in contravention of section 12 of the DPA, and therefore committed an offence.

In respect of section 6(1)(d) of the DPA, the Commissioner noted that the data breach was primarily as a result of an employee with access to the personal data who deliberately set out to process the personal data without authorisation, rather than weak security measures by the local company. In addition, the Commissioner was satisfied with the company's response to the data breach, who implemented contractual and technical arrangements with the third party company in the UK and took appropriate remedial action to protect the personal data and mitigate the risk of the personal data being disclosed to other parties.

In view that the individual was based in the United Kingdom, the Commissioner, in accordance with international cooperation arrangements, considered that the unlawful obtaining of the personal data by the perpetrator would be more effectively pursued by the United Kingdom's Information Commissioner's Office, with who the Division cooperated throughout the investigation.

x. Failure to Comply With A Subject Access Request by Hatrick Limited

A complaint was received by an individual against Hatrick Limited ("Hatrick"), alleging that Hatrick had failed to comply with a request for the erasure of her personal data. The Complainant further alleged that Hatrick had not responded to her request.

The Commissioner undertook an investigation which established that a request for personal data to be erased by the Complainant was received by Hatrick in December 2015. Hatrick had intended to request further information from the Complainant, to verify her identity, in order to process her request but failed to do so. Following the Commissioner's engagement, and having noticed the inactivity of the Complainant's

account, Hatrick deleted the Complainant's personal data, and informed her of such deletion on 29th January 2016.

The Commissioner concluded that whilst Hatrick had responded to the Complainant's request and informed her that they had complied with it, the response was made after 21 days and therefore, in contravention of the time limit set out in section 16(4) of the DPA which requires data controllers to respond to a person's objection to the processing of their personal data within 21 days, stating that they have complied, or intend to comply with the request.

The Commissioner recorded Hatrick's contravention of the DPA, and engaged with them to review their policies and procedures to ensure they comply with future requests in conformance with section 16 of the DPA.

xi. Unsolicited direct marketing by Fairhomes (Gibraltar) Limited (an entity of the Ocean Village Group of Companies)

A local company voluntarily contacted the Division to notify of an incident where it sent out email marketing messages (the "Emails") to customers who had opted-out of marketing material.

The Commissioner undertook an investigation which concluded that the Emails were sent as a result of a human error, which resulted in the processing of personal data in contravention of section 17(1) of the DPA and Regulation 23 of the Communications (Personal Data and Privacy) Regulations 2006 ("Privacy Regs").

Whilst contraventions were identified, the Commissioner considered that these were accidental, as a result of a human error and noted that the company voluntarily notified the Commissioner and took appropriate remedial action including the introduction of measures to mitigate the risk of future contraventions.

xii. Ongoing cases

At the time of writing, the Division was involved in the investigation of other cases in addition to the above, relating to the following: failure to respond to a subject access request, unsolicited direct marketing, alleged use of CCTV in breach of the DPA, employee monitoring, leak of CCTV footage, and the unlawful obtaining of personal data. The Commissioner expects to report on these cases in the forthcoming annual report, once they have been completed.

Broadcasting



Introduction

Since the introduction of the Broadcasting Act 2012 (the “Act”) the Broadcasting Division has been responsible for the granting and enforcement of licences to broadcasters, regulating matters on broadcasting standards, the issuing of codes of practice and encouraging the promotion of media literacy. The Division is responsible for providing guidance to consumers, purchasers and other users of the broadcasting services in Gibraltar, including the public service broadcaster with whom the Division mutually cooperates with.

At present, Gibraltar has two television broadcasters and two radio broadcasters. The first established television broadcasting service is provided by the Gibraltar Broadcasting Corporation (“GBC”) which also provides one radio network, namely Radio Gibraltar, and is the sole public service broadcaster.

The second television broadcaster currently transmitting from Gibraltar’s Digital Terrestrial Television platform is Al-Jazeera Media Network. Al-Jazeera Media Network is a privately owned Middle Eastern multinational multimedia corporation based in Qatar and is the parent company of Al-Jazeera and its related networks.

The other radio network licensed in Gibraltar is the British Forces Broadcasting Service (BFBS) provided by the Services Sound and Vision Corporation (SSVC).

Evidently, there is great scope for radio and television broadcasters alike to be licensed in Gibraltar following the launch of the digital broadcasting network in 2012, and there is a lot about this network that is yet to be explored by broadcasters. Nonetheless, the Broadcasting Division has been receiving a lot of interest, particularly from overseas business based in the UK, who aspire to broadcast their services in Gibraltar. All enquiries made about licensing procedures and regulations focus on radio broadcasting services, and incline mostly towards the Restricted FM Service Licence.

International Participation

i. 41st European Platform for Regulatory Authorities Meeting (EPRA), 13th - 15th May 2015, Berne, Switzerland

The 41st EPRA meeting took place in Berne between the 13th and 15th of May 2015 at the joint invitation of the Federal Office for Communications (Ofcom) and the Independent Complaints Authority (ICA). On this occasion, about 150 delegates from over 50 regulatory authorities in more than 40 European countries came together to discuss issues related to media regulation as well as exchange information and best practices on topics of common interest.

Two members of the Authority attended the event in an attempt to assess and better understand how recent changes in the broadcasting industry impact the roles played by regulators. The Division focused its work on how best to ensure and assess media pluralism and the diversity of media content. They also attended working groups, one of which discussed “Audiovisual Commercial Communications – Trends and Challenges”. This working group focused on advertising issues and engaged participants in a brainstorming session about how current changes to the legal framework creates further difficulties in applying current terminology of the broadcasting regulations.



The EPRA conference proved to be a valuable event in the Division’s calendar, as it provided an excellent opportunity to network with other European authorities facing similar issues within the broadcasting industry. This EPRA meeting was a very special one for EPRA as it marked the 20th anniversary of the Platform. With its 20 years of experience and a robust network of working-level contacts, EPRA

is the oldest and largest network of broadcasting regulators, and is an ideal setting for the exchange of information, cases and best practices between broadcasting regulators in Europe.

ii. 3rd Forum for Small Regulatory Authorities (FSRA), 18th September 2015, Dublin, Ireland

The past meetings have proven to be very valuable to the Authority and it was decided at the last meeting that this should continue. A one day seminar was held in Dublin, Ireland, on the 18th September 2015.

The sessions focused on six main broadcasting issues in an attempt to broaden the knowledge and understanding of how other small regulatory authorities deal with such matters. The main issues discussed were:

- Digital Audio Broadcasting (DAB) – Transmission Costs, consumer take up and plans for FM switch-off
- Provision of Access Service – measures adopted by NRAs to encourage access services
- Protection of minors on VOD – protection tools
- BBC Charter – impact of movement of content to online only
- Split-screen audio-visual commercial communication
- Sponsorship and related issues

All parties were able to exchange ideas, propose improvements to their existing services, present new recommendations and offer sound advice during the course of the day. At the end of the meeting, it was decided that the next meeting would be held in the Channel Islands.

iii. 17th Mediterranean Network of Regulatory Authorities (MNRA), 1st – 2nd October 2015, Split, Croatia.

The MNRA was originally created on a proposal of the French Conseil supérieur de l'audiovisuel and the Consell de l'Audiovisual de Catalunya in Barcelona in 1997 in an attempt to strengthen the historical and cultural links between Mediterranean countries, and to give the opportunity to the independent regulatory authorities from the Mediterranean area to discuss the common challenges they face on a daily basis.

The 17th MNRA Plenary Meeting took place in Split (Podstrana), Croatia on the 1st and 2nd of October 2015 and was organised by the Agency for Electronic Media of Croatia. The Division attended this meeting in which a range of topics were discussed amongst

the regulators. Several workshops were organised over the period of two days focusing on the following subjects:

- Migration, human rights and the representation of immigration in the media
- Projects to support media literacy regarding the protection of minors
- The relevance of gender in commercial communications
- Social and political pluralism during election campaigns

The MNRA was a well-attended event with a total of 26 member authorities representing twenty-two states from the Mediterranean Basin.



iv. 42nd EPRA meeting, 28th – 30th October 2015, Nuremberg, Germany

The 42nd EPRA meeting took place in Nuremberg, Germany, from the 28th to 30th October 2015 at the joint invitation of the German regulators. Approximately 150 delegates representing the totality of the 52 regulatory authorities from 46 European countries gathered together in order to discuss issues related to broadcasting regulations and exchange information and best practices.

The meeting was also attended by several observer organisations (Council of Europe, European Audiovisual Observatory, European Commission, the Office of the OSCE Representative on Freedom of the Media), as well as guest speakers from industry and academia (EBU, Studio Hamburg, EFADs, VPRT, München Live TV, Reuters Institute for the Study of Journalism), and guest regulators from Morocco and Tunisia.

How to ensure a sustainable ecosystem for media in Europe that offers a plurality and diversity of content was the overarching theme of the meeting which encompassed several subtopics, such as:

- New approaches to helping fund public interest content or supporting the content industries and the involvement of media regulators;
- The regulators' toolkit to assess the diversity of sources, output and exposure, with a focus on monitoring the transparency of media ownership, and analysing news consumption trends
- Public service content in a multiplatform environment: from must carry to must-be-found
- Product placement
- Local/regional TV: financing models

The EPRA conference proved to be a very successful event with sustainability, findability and transparency being the three recurring concepts in the debates between regulators. How to effectively implement these three principles will be a key challenge for the ongoing reform of the audiovisual regulatory framework; a subject matter the Broadcasting Division will work closely towards developing.



v. Product Placement and Sponsorship Workshop, 11th November 2015, Malta

One delegate from the Division attended a "Product Placement and Sponsorship" workshop in Malta on the 11th November 2015. The workshop, organised by the Broadcasting Authority of Malta and attended by representatives from five other European regulatory bodies, was divided into four sessions exploring the true definition of undue prominence of props, prize and product placement and how such placements are incorporated into light-entertainment and thematic programmes.

This workshop proved to be a very productive event and a great opportunity to bring together a limited number of people from monitoring departments of councils and authorities to discuss the day-to-day difficulties involving the use of product placement and evaluate how each jurisdiction interprets such situations.

The Authority undertook an active role in this workshop by delivering a short presentation on the use of product placement in locally produced programmes, particularly those broadcast by GBC. The feedback provided and information gathered from the workshop will be used as groundwork for a Media Literacy Campaign the Broadcasting Division will initiate later on in the year.



Regulatory Matters

The following is an outline of the regulatory matters in which the Division has been involved in for the period 2015/16.

i. European Referendum 2016

As per section 7(1) of the European Parliamentary Elections Act 2004 (the "Act"), as amended by Schedule 1 of the European Union (Referendum) Act 2016, the Authority has a duty to establish, and from time to time, review and revise, a code of standards for the content of programmes to be included in television and radio services in relation to the EU Referendum.

The Act requires the Authority to set standards in order to secure that programmes included in television and radio services, in relation to the EU Referendum, are presented with accuracy and due impartiality as respects matters of political controversy or relating to

public policy. It must also set standards in order to ensure that programmes included in television and radio services do not give undue prominence to the views and opinions of particular persons and bodies in relation to matters of political controversy and public policy.

The Broadcasting Division worked towards devising a “Code of Standards for TV and Radio Programmes in Relation to the EU Referendum” and which was published on the 18th March 2016. A second document, namely “Guidelines for the Handling of Complaints about the Observance of the Code of Standard in Relation to the EU Referendum 2016” establishing procedures for the handling and resolution of complaints about the observance of the code of standards was also published on the same date.

For the purpose of this Code and its accompanying guidelines, all references to “EU Referendum” means the referendum on whether the United Kingdom should remain a member of the European Union to be held in the United Kingdom and Gibraltar pursuant to the UK European Union Referendum Act 2015.

ii. Review of Code on Due Impartiality, Due Accuracy and Undue Prominence

In the interests of best practice, the Authority undertook to review the Code on Due Impartiality, Due Accuracy and Undue Prominence (the “Code”), first published by the Authority on 21st December 2012. The Authority consulted with all the relevant stakeholders which included the GBC and political parties which are represented in the Gibraltar Parliament.

Upon receiving feedback from various stakeholders, the Authority found that certain issues raised required further clarification. Therefore, the Authority, further amended the Code after taking into account all the views expressed by stakeholders at the public consultation as well as additional comments received over the past few months.

The Code was published on the 13th April 2015.

iii. Programme Standards Code

The Division has maintained a proactive approach to their line of work, conducting regular revisions and publishing updates to existing codes of practices as per section 22(1) of the Act.

An improved Programme Standards Code was

published on the 5th May 2015 with the rules and conditions set therein becoming effective as from the 18th May 2015, affording the public service broadcaster reasonable time to make amendments to their television programming schedule and content. This code replaced document No.01/13 published on the 22nd January 2013.

A new appendix, namely “Guidelines to Television Scheduling and the Watershed” was created to assist the public service broadcaster, and others, in interpreting and properly applying the rules and conditions concerning the watershed in Gibraltar. The Authority encourages all broadcasters to balance their right to broadcast innovative and challenging content, appropriate to all target audiences, with the responsibility to protect the vulnerable and avoid unjustifiable offence. It is of utmost importance that all broadcasters, particularly public service broadcasters, are sensitive to, and adhere to generally accepted standards and audience expectations of the content aired, especially in relation to the protection of minors.

Given that the watershed was changed from 10pm to 9pm, broadcasters were reminded that particular care was needed to ensure that material scheduled to start before, but continue past, 9pm or 6:30am would not abruptly become unsuitable. Furthermore, content that starts after the watershed should observe a smooth transition to more adult content and should consequently not commence with the strongest material.

In providing further guidance to broadcasters, the Authority also incorporated advisory symbols in this Code. Using these symbols allows viewers to make safe, informed decisions about the content they choose for themselves and their family by affording the viewer or listener time to ascertain whether the said programme material is justified or not.

iv. Provision of Access Services

The establishing of access services in local television programmes is a topic of interest the Division has been actively pursuing since the publication of the “Code on the Provision of Access Services” and accompanying guidelines in August 2013. The Authority was seriously concerned that GBC, being the public service broadcaster, was yet to implement the bare minimum provisions for providing access services and as a result, was not fulfilling its duty to inform the whole of the local community.

Subsequent to several meetings with GBC and local

stakeholders, efforts to incorporate the provision of access services in local programming prevailed. On the 10th December 2015, GBC announced that closed captioning had been introduced on all “on demand” television programming on the GBC Player. All locally-produced televisions programmes can be found on the GBC Player and the closed captioning facility provides a sub-titling service to assist persons who have a hearing impairment. Closed captions, which will be available no later than 36 hours after the original on air broadcast, can be activated by clicking the ‘CC’ button on the screen.

The Division welcomed this initiative, nevertheless the team will continue working towards ensuring that broadcasting services in Gibraltar are progressively made accessible to people with disabilities.

v. Broadcasting Quarterly Reviews

The Division continues with the quarterly reviews of locally produced broadcasts as part of a comprehensive monitoring exercise to determine whether the rules contained in the Programme Standards Code, as well as the Audiovisual Commercial Communications Code are being applied correctly. In the first instance, instead of adopting a strict, authoritative approach with regards the misapplication of the Codes, the Division has provided guidance and also, made recommendations to assist GBC, as the public service broadcaster, to properly interpret and apply the existing rules.

Since the onset of the quarterly reviews, the Division has been monitoring all locally produced content by GBC and determined that GBC has benefitted from the guidance, instruction and regulation provided particularly on the topic of product placement and general programme standards.

The Division is still of the view that there are several issues stemming from the light-entertainment programmes currently being aired on GBC which require proper direction and adjustments to be able to comply with the said Codes. In an attempt to deal with these oversights, and equip GBC with the correct interpretation of the relevant Codes, the Authority has organised a workshop which will take place at the beginning of April 2016.

vi. Revenue Collected

During the period 2014/2015, and in accordance with the provisions of the Broadcasting (Licensing) Regulations 2012, the Authority collected a total of £10,000 in respect of a licence for the provision of an FM radio service in respect of BFBS Gibraltar.

Postal Services



Introduction

The Postal Services Division (the “Division”) of the Authority is responsible for the granting and enforcement of licences issued to postal service providers, in accordance with the Post Office Act (the “Act”) and the Postal Services (Authorisation) Regulations 2012 (the “Regulations”).

The Authority’s statutory objective is to promote development and enhance competition within the local postal services sector, whilst securing the provision of a competitive universal postal service at an affordable price for all users in Gibraltar.

Specific functions under the Act, include monitoring the operational developments of the Royal Gibraltar Post Office (the “RGPO”) setting quality standards, monitoring performance against these standards and ensuring that the RGPO complies with its licence obligations while securing the freedom to provide competitive services in a liberalised postal market.

During the 2015 period, the division broadened its focus and successfully carried out inspections of all registered postal service providers in Gibraltar. The Division also used these inspections to provide guidance and recommendations to service providers and gain a better understanding of the industry in order to ensure compliance with the requirements of the Act.

Over the course of the three day conference, representatives from international regulatory authorities, postal operators, as well as consultants and economists gave numerous presentations and held discussions on the following regulatory matters:

- EU Postal Legislation & Universal Service Obligations;
- Efficiency of Postal Operators;
- Current Market Trends;
- Price Cap Regulation & Declining mail volumes;
- Implications of recent developments in E-commerce for Universal Service Providers;
- Effects of liberalisation/completion on the Universal Service Provider;
- Impact of applying the EU Telecom Regulatory Framework to the Postal Industry;
- Compensation funds under EU Law; and
- Future opportunities in the postal sector.

During the conference participants were given the opportunity to exchange ideas and experiences in differing regulatory approaches and current challenges faced by the postal industry.

The Division also met with various operators, regulators and professionals who work in the postal industry and established useful working contacts which will prove beneficial in the future.

International Participation

This section is an outline of the conferences and meetings attended by the Division during the 2015/2016 period.

i. 23rd Conference on Postal and Delivery Economics, Athens Greece, June 2015

Two employees of the Division attended the 23rd Conference on Postal and Delivery Economics, held in Athens, Greece, on the 3rd - 6th June 2015. This conference was organised by the Centre for Research in Regulated Industries, Rutgers Business School. This is the latest in a series of international conferences and workshops which began in 1990.



Regulatory Matters

The following is an outline of the ongoing regulatory matters which the Division has been pursuing this year.

i. Universal Service Provider

The RGPO was designated as the Universal Service Provider in Gibraltar on the 17th July 2013 and is required to provide the following services:

- the clearance, sorting, transport and distribution of letters up to 2Kgs
- the clearance, sorting, transport and distribution of parcels up to 20Kgs
- services for both registered & insured items
- free services, for blind or partially sighted persons (up to 7kg)
- Registered and Insured Items
- PO Box Rental
- Poste-Restante

The RGPO is also responsible for the delivery of incoming international mail to addresses within Gibraltar and collection and onward transmission of outgoing international mail.

ii. Inspections of Postal Service Providers (Courier companies)

Throughout 2015, inspections of all registered postal service providers (operating under a General Authorisation) were carried out. The purpose of these inspections were to ensure compliance with Notice No. 12/13 - "Essential Requirements & Conditions" of General Authorisation together with the requirements of the Data Protection Act 2004.

Below is a summary of the general advice given to postal service providers in order to ensure, confidentiality of correspondence in connection with the sending, conveyance and delivery of postal items, the security of the network as regards the transport of dangerous goods and data protection.

• Vetting / Pre-employment checks

Postal service providers were advised that any prospective employees who may have access to

postal items or who are involved in the conveyance, handling or delivery of postal items should be asked to declare any unspent criminal convictions relating to dishonest conduct (in particular theft, obtaining property by deception or fraud).

A copy of document No. 10/12 – "Guidance on Pre-employment Vetting" published by the Authority was provided to all postal service providers during the inspections.

• Security of Postal Items – Premises

In certain cases, postal service providers were asked to review their existing organisational and security arrangements having regard to the aspects identified below:

• Separation of public and operational areas

Minimising exposure of postal items to the risk of theft, damage or interference.

Methods of access control (locks, fobs, key cards, alarms)

The Authority made recommendations that were proportional to the size of their operations and requested that these be implemented as soon as possible.

• CCTV

The Division ensured that CCTV coverage was adequate and recommended that Guidance Note No. 17/07 – "Guidance for Users of CCTV systems" be followed, especially in respect of adequately sign posting the use of CCTV throughout the premises.

• Security of Postal Items – Vehicles

Wherever appropriate, postal service providers were asked to ensure that all vehicles used for the collection, conveyance and delivery of postal items were locked and secured when left unattended, including the rear box and under-seat of scooters. Service providers were also advised that vehicles should be partitioned with the rear windows blacked out in order to ensure that postal items in vehicles are not left in full view of the public.

• Security of the network

Postal service providers were advised that a list of commonly recognised dangerous and prohibited goods should be clearly displayed or readily available to customers both online and at the main counters. This advice should also include information on the specific packaging requirements of parcels containing specific goods classified as dangerous.

The Division also reiterated the importance of always checking the contents of parcels or packages against the declaration before they are sealed and accepted for transmission.

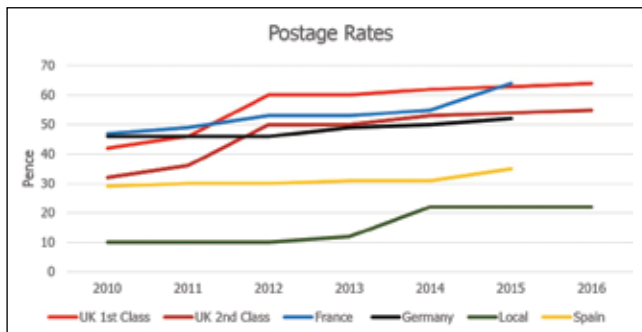
• Complaints procedures

Postal service providers were reminded of the requirement to have, simple and inexpensive procedures in place for dealing with postal complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards. The Division ensured that these procedures were proportional and sufficient given the size of the company in question and would enable disputes to be settled fairly and promptly.

iii. Postage Rates

In accordance with the provisions of the Post office Act, the tariffs for each of the services forming part of the universal service must be “affordable” and “cost-orientated”.

The table below shows the price of stamps both locally and within the UK as well as in various European countries.



The RGPO has not increased the postage rates during the period under review. In order to ensure that the cost of a stamp will cover the net cost of providing the universal service, postage rates should be increased gradually. The cost of a local stamp in Gibraltar is represented by the green line in the graph above and it is well below the European average.

iv. Quality of Service Requirements

In accordance with the provisions of Section 40 (1) of the Act, the Authority has a duty to set quality standards for local mail services within Gibraltar in order to ensure the provision of a good quality universal postal service.

a) Local Mail

During the 2014/15 period, the Authority set the following quality of service target for local mail according to the formula (D+N) where D represents the date of deposit (before the last collection time) and N is the number of days which elapse between that date and delivery to the addressee:

88% of items to be delivered in Gibraltar the day after posting (D+1)

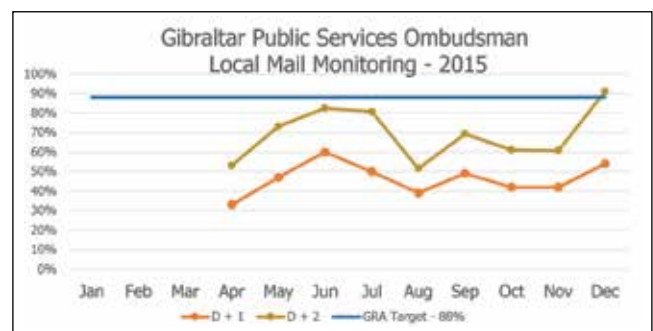
However, the Authority has taken into consideration the RGPO’s performance during 2015 and has subsequently decided that the established quality of service target shall remain the same.

b) Performance Monitoring

Section 4N (4) of the Act requires independent performance monitoring of the established quality standards to be carried out.

The RGPO, with the approval of the Authority, has appointed the Gibraltar Public Service Ombudsman (the “GPSO”) as the independent body to carry out the task of monitoring mail deposited at access points throughout Gibraltar and delivered locally. In essence this monitors the full end-to end system in Gibraltar including the clearance of access points, sorting process and delivery to the addressee. The GPSO began monitoring the RGPO’s performance from April 2015.

The chart below illustrates the RGPO’s performance results in respect of next day delivery of local mail deposited as access points within Gibraltar for 2015:



The GPSO’s statistical results clearly reflect the fact that the RGPO is not only struggling to meet the current performance target of 88% for next day delivery but is also failing to deliver items adequately within two days which is unjustified given Gibraltar’s small size.

These low performance results are linked to the fact that the RGPO often experiences staff shortages and suffers from extremely limited resources. However, these results also highlight potential operational problems within the system relating to the full

clearance of pillar boxes and completion of walks.

The Division will continue to assist the RGPO in making informed decisions regarding their operational procedures in order to address any potential issues that may be adversely affecting their Quality of Service.

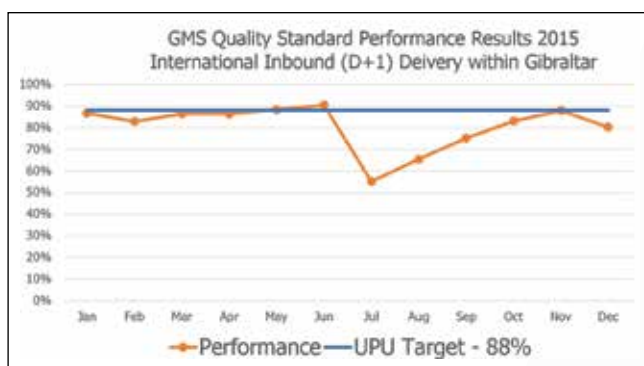
c) International Inbound delivery within Gibraltar (D+1)

The RGPO has been part of the Global Monitoring System (GMS) since 2011. This is an independent performance measurement system managed by the Universal Postal Union (UPU). The UPU coordinates postal policies among member nations and aims to streamline the global network with a view of improving quality of service for customers. Gibraltar is a member of the UPU as an overseas territory of the United Kingdom.

The GMS consists of external, independent, panellists who exchange test items between the participating countries. The test items are identified and logged automatically and this information is immediately sent to the UPU. This information is used to positively affect remuneration between postal administrations, according to performance.

However, it is important not to confuse this system which only monitors the processing and delivery times of inbound international mail once it arrives in the sorting office, with that of the GPSO which monitors the full local end-to-end network which entails the collection of mail from access points, processing and delivery within Gibraltar.

The chart below illustrates the RGPO's performance results in respect of next day delivery of international inbound mail within Gibraltar for 2015:



The low performance results obtained in July, August and September were specifically due to staff shortages. The year-to-date figures received from the UPU show the RGPO's performance result for next day delivery within Gibraltar as follows:

Year	2011	2012	2013	2014	2015
UPU Target	65%	75%	78%	88%	88%
Performance Result	85%	91%	85%	87%	80%

The figures show that the RGPO has fallen short of meeting the target of 88%. The Authority will continue to work with the RGPO in order to make the necessary operational improvements to satisfy the required performance targets.

d) EU Intra-Community cross-border mail

The quality of service standard for the delivery of intra-Community cross-border mail was set by the EU Directive and was transposed into Gibraltar law under Section 4N (2) and Schedule II of the Act. The quality standard for postal items of the fastest standard category is as follows:

85% of items to be delivered in D+3

97% of items to be delivered in D+5

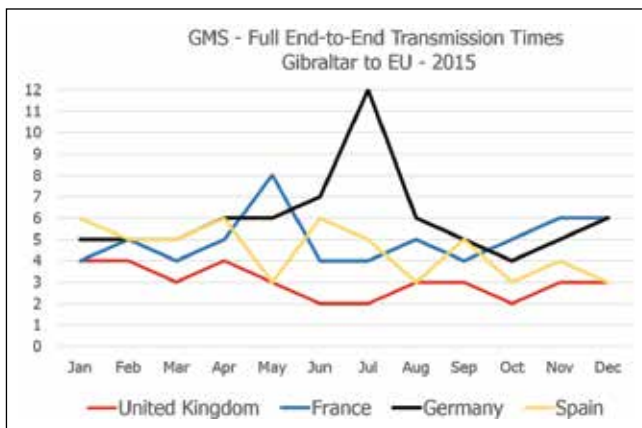
However, the above standards are only applicable for direct routes and, due to Gibraltar's unique geographical circumstances, cross-border mail (with the exception of Spain) often uses a transit route, and therefore additional days may be required.



e) Mail Delivery within Europe

As a result of numerous meetings held last year, the Division encouraged the RGPO to enrol with the UPU's independent full end-to-end performance monitoring of both EU and international mail routes for 2015. These statistics will provide an accurate reflection of the RGPO's international performance, however it is important to bear in mind that the statistics will also be subject to the efficiency of any third party postal administration involved during the international transit of postal items.

The following chart is for information purposes only and has no regulatory implications. It reflects the transit time of an item posted in Gibraltar to the destination country within Europe.



The table below, highlights the average transit time for items posted in Gibraltar (before the last collection time) until delivery within the Destination Country.

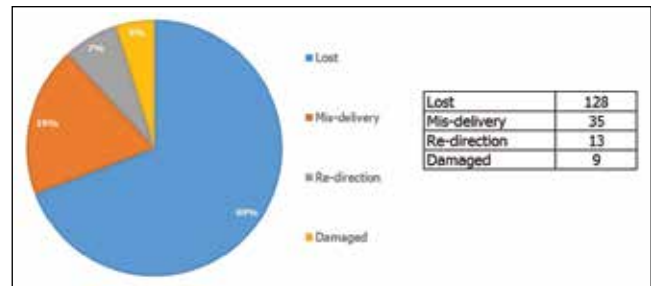
Country	Days
United Kingdom	3
Spain	4.5
France	5
Germany	6



Dispute Resolution

In accordance with the provisions of Section 4P (8) of the Post Office Act, the RGPO is required to publish information on the number of complaints received and the manner in which they have been dealt with.

The table below is a breakdown of the number of complaints received by the RGPO during the period 2015:



Of the complaints logged in the table above, only two of these complainants contacted the Division for advice. During the period under review, the Division also dealt with numerous enquiries. However, these were satisfactorily resolved without the Division having to open a full investigation.

The Register

The Postal Service (Authorisation) Regulations 2012 requires the Authority to establish and maintain a register of authorised persons; and individual licences granted by the Authority under Part I of the Act.

The Register can be inspected at the Authority's office and is also accessible on its website at the following address: <http://www.gra.gi/postal-services/the-register>

Revenue Collected

During the 2015/16 period and in accordance with the provisions of the Post office Act, the total amount collected by the Authority in respect of General authorisations was £1750.

The total amount collected by the Authority in respect of the Individual Licence issued to the RGPO was £5000.

This has brought the total revenue for Individual Licences & General Authorisations for the 2015/2016 period to £6750.



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