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GIBRALTAR REGULATORY
AUTHORITY

Gibraltar Regulatory Authority

**Annual Report
2016 / 2017**

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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 2016 to 31st March 2017.

Gibraltar Regulatory Authority Act 2000

Since the reappointment of Mr Francis Lopez as a member of the Authority's Board for a period of two years on 1st January 2016, the Board has remained unchanged. In accordance with section 3 of the Gibraltar Regulatory Authority Act 2000, the Board 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-two 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 Communications and Postal Services

The Electronic Communications and Postal Services Division is a newly formed Division which incorporates the regulation of both these areas. On the electronic communications front, 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 the period 2016/2017 the Division has undertaken a number of projects, some of which are driven by the EU, and others undertaken on its own initiative. Throughout the past year, it has looked into improving its internal policies and processes and will continue to do so beyond 2017.

The Authority, through an initiative put in place in January 2016, has been collecting statistical data from authorised providers, on a quarterly basis. The

relevant providers have been providing the Authority with data relating to their activities in the various markets which they offer services in. As the only body collecting market specific data, particularly to this level of detail, this data collection exercise has allowed the Authority to build a very valuable analytical tool, which is contributing to its ability to regulate the industry on a continual and up to date basis.

Amongst the various projects undertaken by this Division, in September 2016, the Authority was approached by the Falkland Islands Government for assistance in establishing a communications regulatory regime in the islands. This is not the first time the Authority has been asked to assist with regulatory matters in other jurisdictions.

With respect to the regulation of the postal sector, this is carried out 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. This is done by facilitating market entry through authorisations and licences, whilst securing the provision of a competitive universal postal service at an affordable price for all users in Gibraltar.

Spectrum & Operations

The Spectrum & Operations Division is also a newly formed Division which incorporates internal operations as well as being responsible for all matters relating to spectrum, radiocommunications, satellite and international coordination. The Division is responsible for administering the regulatory provision of the satellite services industry and represents the Gibraltar-based operator SES Satellites (Gibraltar) Ltd at international meetings and forums.

As part of its remit under Part VI of the Communications Act 2006, the Authority is responsible for the management and control of the electro-magnetic spectrum. Amongst its duties, the Division carries out regular site inspections of sites known to emit radio waves, with a view to ensuring they operate within recognised safe guidelines. This Division 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.

Information Rights

During this past year, the Information Rights Division introduced a new category of data protection inspections, referred to as Focused Inspections. Whereas in the traditional inspections an overall high level assessment is undertaken of an organisation's data processing activities, in a Focused Inspection a detailed assessment is undertaken on a particular area of an organisation's processing operations.

This year, the Division also experienced an increase of around 40% in the number of data protection queries that it dealt with, highlighting the growing awareness of data protection in Gibraltar as a whole.

Internationally, the Data Protection Commissioner successfully became an accredited member of the European Conference of Data Protection Authorities in May 2016. The accreditation was a major achievement for the Data Protection Commissioner and Gibraltar as a whole, in receiving international recognition after seeing its accreditation application blocked by the Spanish data protection regulator since the Authority's application in 2014.

Additionally, the Division continued its contributions to international working groups as an active member despite the relatively small size of the Division.

Broadcasting

The Broadcasting Division's main responsibilities are to grant and enforce licences to broadcasters, to regulate matters on broadcasting standards, to issue codes of practice and to encourage the promotion of media literacy.

The Division does not only licence and regulate these broadcasters, but is also responsible for providing guidance to consumers and other users of the broadcasting services in Gibraltar. In November 2016, the Division embarked on its first Awareness Campaign which started with a Radio Audience Survey, primarily conducted via face-to-face interviews with the public. The direct interaction with the public allowed the team to raise awareness and promote the Division's roles and responsibilities, as well as provide concerned individuals with additional information regarding broadcasting standards and the complaints procedures. The Awareness Campaign is an ongoing project which will continue to develop significantly. The Division is currently liaising with the Department of Education to introduce a media literacy campaign in comprehensive schools.

Revenue and Expenditure

During the 2016/17 financial year, the total collected was £2,080,198.54 which was paid into the Consolidated Fund. This compares to expenditure (calculated on a cash basis), for all of the Authority's divisions of £1,758,526.86.



Electronic Communications



Introduction

The Electronic 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 2016/17 the Division has undertaken a number of projects, some of which are driven by the EU, and others undertaken on its own initiative. Throughout the past year, it has looked into improving its internal policies and processes and will continue to do so beyond 2017. As a result of this initiative, a new General Authorisation notification form and Register of Authorised Persons has been devised and is now in place.

In June 2016, the Authority issued a Public Consultation on Wholesale Broadband Access Markets. Based on initial findings, Gibtelecom was proposed as having Significant Market Power ("SMP"), in both wholesale and retail broadband access markets. However, in July 2016, due to other factors which were deemed to potentially have an impact on the broadband market review, the Authority issued a notice withdrawing the Public Consultation.

In late 2015, the Authority was informed that Gibtelecom had denied an Authorised provider, Gibfibre, access to one of its data centres for the purpose of providing potential customers with IP transit and leased lines services. An investigation ensued and legal avenues were investigated. After extended correspondence with Gibtelecom, the Authority engaged external legal advisers to provide a substantial legal opinion. The investigation ended in 2017 resulting in this being reported in this financial year.

In September 2016, the Authority issued a national consultation on a review of cost accounting methodology which proposed changes to Decision Notice C01/15 relating to Accounting Separation, Cost

Accounting Systems, Cost Orientation and Retail Price Notification. The consultation focused on whether an SMP provider, subject to an obligation of accounting separation, should provide their accounts and costs using the principle of Current Cost Accounting or instead to apply the Historical Cost Accounting methodology. On the topic of accounts, Gibtelecom, as a consequence of its SMP obligations, submitted their 2013 and 2014 Accounting Separation Reports ("ASR"). The submissions were reviewed and analysed, resulting in the Authority identifying some compliance issues which are to be addressed in the upcoming 2015 ASR submission.

Also in September 2016, the Authority was approached by the Falkland Islands Government for assistance in establishing a communications regulatory regime in the islands. This is not the first time the Authority has been asked to assist with regulatory matters in other jurisdictions.

The Authority, through an initiative put in place in January 2016, has been collecting statistical data from Authorised providers, on a quarterly basis. The relevant providers have been providing the Authority with data relating to their activities in the various markets which they offer services in. As the only body collecting market specific data, particularly to this level of detail, this data collection exercise has allowed the Authority to build a very valuable analytical tool, which is contributing to its ability to regulate the industry on a continual and up to date basis.

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

International participation

i. London – Telecoms Mini MBA training course

In October 2016, a member of the Division attended a week long telecommunications training course. This very interactive course focused on a number of telecoms specific topics including; business strategy, the business environment, technology, finance, leadership, management, marketing and

customer focus. Alongside the structured learning, participants were required to contribute towards a Telecoms Specific Business Simulation, which meant that participants were required to deliver, in teams, a presentation proposing a detailed business plan using the knowledge gained during the course.

The course is comprised of a further two training elements which will enable the staff member to obtain a Postgraduate Certificate in Advanced Telecoms Management, which is an internationally recognised university qualification in Effective Telecoms Strategies.

ii. Cambridge – Broadband Universal Service Obligations

In September 2016, a member of the Division attended an event hosted by telecoms, media and technology specialists, Analysys Mason, on Broadband Universal Service Obligations (“USO”), and Policy and Regulation.

The meeting looked into Broadband USO policies, what they try to achieve and why, as well as what regulators need to consider when regulating this sector. Matters discussed included differences from telephony USO to ‘classical’ broadband coverage interventions; planning for wholesale access; affordability; policy justification; technical and commercial challenges; EU targets and lessons learnt from Next Generation Access interventions.

Members of other regulatory authorities were also present at the event, including the Commission for Communications Regulation, who presented Ireland as a case study.

iii. Bangkok - The IIC’s 47th Annual Conference & the International Regulators Forum

The 47th Annual Conference, held in October 2016, were represented by regulators, operators, government organisations and other technology, media and telecommunications professionals from five different continents. One member of the Authority attended.

True Corporation’s DCEO gave the keynote on Day 1 outlining Thailand’s aspirations as a digital hub. Other far reaching discussions looked at the realities of Australia’s New Broadband Network project, the stretch that new technologies and business models

are putting on current regulatory frameworks, plus break-out sessions on universal service obligations, smart cities and piracy.

On the second day, IIC president Chris Chapman set out how industry needs to tell telecom regulators what they want as the next wave of digital disruption arrives. Panels identified piracy as the biggest competitive threat to content and OTT Providers and discussed the future of spectrum against a backdrop of the advent of 5G and transformational technologies.

The National Broadcasting and Telecommunications Commission from Thailand hosted the International Regulators Forum 2016.

The first day of the Forum dealt with the role of the regulator balancing efficiency, efficacy and creativity. This focussed on the pressures that convergence brings, the need for collaboration between regulatory agencies was emphasised while the expression ‘the level playing field’ was challenged. The appropriateness of traffic management, and the tensions created by OTTs in the erstwhile ‘traditional’ content market, were also raised by speakers and delegates. There were some very clear calls for a re affirmation of the role of regulator as an organisation which must work effectively, efficiently but also creatively in the service of the public interest and the people who work within it as public servants.

The second day looked at matters of coverage, quality of service and diversity. The issue of 5G and what it will mean from a regulatory perspective was discussed – and how current spectrum policies are already shaping the environment. Key issues will be coverage – as people become more reliant on mobiles for services such as banking; capacity – as quality of service will also be critical; and diversity – a wide range of apps and services will need access to networks. Delegates heard the latest on strategies such as sharing, incentives, re-farming and more. Discussion focused on how regulators can develop national strategies while collaborating with these global forces that run over the networks.

iv. Assistance to Falkland Islands Government

The Authority received a request for assistance from the Falkland Islands Government regarding the establishment of a communications regulator.

In September 2016, the Head of the Communications Division met with the Attorney General and

the Head of the Civil Aviation Authority of the Falklands in London. The aim was to discuss how a communications regulatory framework could be established and what processes would have to be carried out. Legislation was reviewed and in depth analyses of telecommunications licences and licensing conditions were carried out. Other issues such as spectrum fees and management, monopolistic scenarios, numbering conventions and broadband provision were also discussed at the meeting. Given the level of assistance provided, the Falkland Islands Government is keen to engage in further discussions with the Authority in order to establish links through a formal arrangement on cooperation and information exchange.

defined the following obligations on Gibtelecom as being appropriate, proportionate and justified: transparency; non-discrimination; accounting separation; and cost accounting. As to the wholesale broadband access markets, the following obligations were also set out: transparency; non-discrimination; access; accounting separation; price controls and cost accounting.

On 28th of July 2016, the Authority issued a Notice withdrawing the Public Consultation on Wholesale Broadband Access Markets due to other issues having a potential impact on the broadband review. The Authority will be reissuing the public consultation at a later date.

Regulatory matters

i. Market reviews

On 30th June 2016, the Authority issued a national consultation on wholesale broadband access markets.

The Authority's preliminary view was that the incumbent operator, Gibtelecom, has SMP in the markets for wholesale broadband access and retail broadband due to its very high market share (circa 80%), in the retail broadband market, in terms of subscriber numbers. During the consultation, the wholesale markets were deemed as self-supply as no operator was contracting any wholesale services from another. Sapphire Networks had previously entered into an agreement termed "port and pipe" with Gibtelecom in order to access its customers to supply these with internet services. However, this service did not allow Sapphire Networks to differentiate its retail offering from those offered by Gibtelecom to its fixed line customers and therefore, the Authority did not consider this service to be of a wholesale nature.

The Authority also assessed prospective competition and factors which may qualify Gibtelecom's ability to price independently from its competitors. The preliminary conclusion set out that Gibtelecom had SMP and would remain dominant in these markets for the lifetime of the review.

In respect to the retail broadband market, and in light of the market failures identified, the Authority

i. Gibfibrespeed Complaint about Gibtelecom

In February 2017, the Division concluded an investigation which had been ongoing for over a year. Gibfibrespeed had complained that Gibtelecom was denying it access to associated facilities of its network, namely its data centre in Mount Pleasant, in breach of its SMP obligation to grant reasonable access when such a request was made by another authorised operator.

The Authority established that upon receiving the request for access from Gibfibrespeed, Gibtelecom had initially offered a similar arrangement to that which it had offered and continues to offer another local operator. That was to allow Gibfibrespeed access to its data centre by way of a hosting agreement and a further encroachment agreement in order to allow Gibfibrespeed to offer and connect its services to third parties hosted there. It later transpired however, that Gibtelecom had withdrawn the offer, stating that Gibfibrespeed would not be allowed to have any presence in the data centre, nor be allowed to provide hosted customers with its services, by denying access to all ducts, manholes and all other infrastructure.

The Authority's investigation focused on whether Gibtelecom's SMP obligation extended to having to allow Gibfibrespeed to have a presence in the data centre, given that Gibfibrespeed's intention was to provide potential customers with its services, namely bandwidth and IP transit. The Authority determined the data centre, as a physical structure, was an associated facility of Gibtelecom's network and so, the SMP obligation extended to this.

Upon considering the extent of its powers and the extent to which the SMP obligation to grant access

to other operators provides, the Authority concluded that its powers did not extend to mandating operators to cooperate on a commercial level with other operators, even if this is deemed to be positive in the electronic communications market. The Authority was therefore unable to intervene. Whilst the SMP obligation remained, it did not extend to having to offer commercial hosting agreements to other operators.

ii. Review of cost accounting methodology

Public consultation

On 1st September 2016, the Authority issued a consultation on a review of cost accounting methodology. In this consultation, the Authority proposed incremental changes to Decision Notice C01/15 relating to Accounting Separation, Cost Accounting Systems, Cost Orientation and Retail Price Notification.

The consultation was limited to examining whether it is still beneficial and proportionate to require that an SMP provider, which is subject to an obligation of accounting separation and/or an obligation of price controls and cost accounting, should provide those accounts and costs using the principle of Current Cost Accounting (“CCA”) or instead to apply the Historical Cost Accounting (“HCA”) methodology.

CCA has been used as the preferred cost accounting standard by National Regulatory Authorities across the EU and in other countries for many years. Its benefits are that the costs calculated represent an approximation of what it would cost the SMP provider to implement the network or service in question now, using the latest technology, rather than in the past using potentially obsolete technology. The CCA approach therefore helps send efficient make-or-buy signals to market entrants (i.e. whether the new competitor could provide the network or service more efficiently itself or whether it should purchase the regulated access service). The benefits of CCA were significant in the past when fixed networks were old and sometimes fully depreciated. However, as technologies change and most providers update their networks and services on a much more frequent basis than was the case in the past, the benefits of the CCA approach have reduced over time.

The Authority therefore considered it would be appropriate and proportionate to modify Decision Notice C01/15 by removing the CCA costing

methodology obligation and replacing it with the HCA methodology. The move to HCA costing will have significant benefits in improving the relevance, transparency and usability of the regulatory accounts in various ways. For example, asset values and hence associated depreciation costs will reflect those actually incurred by Gibtelecom without the inclusion of CCA adjustments which, for the reasons discussed above, may be considered arbitrary. In turn, this will increase confidence in the integrity of the ASR and there will be a significant saving in resources required to produce and validate the ASR.

Response to consultation and decision

The Authority received one detailed response to the consultation from Gibtelecom. Gibtelecom is currently the only operator with accounting SMP obligations and is therefore required to follow the requirements and specifications laid out by the Authority in order to produce, amongst other things, its annual separated accounts every September.

In their submission, Gibtelecom agreed that the move from CCA to HCA would be advantageous. It noted the Authority’s recognition of the challenges of producing regulatory accounts using CCA methodologies, in particular for an operator the size of Gibtelecom. As previously advised, obtaining, interpreting and validating the required CCA indices has been burdensome, costly, time-consuming, and undoubtedly lengthens the review process. Gibtelecom welcomed the Authority’s proposals to revert to HCA principles for regulatory accounting purposes and agreed that this would not have an impact on the development of competition.

Having considered Gibtelecom’s views, the Authority concluded that SMP operators use a historical cost accounting methodology in compliance with accounting separation and cost accounting obligations in Gibraltar.

iii. Accounting Separation Reports

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. On 28th October 2016, Gibtelecom submitted the 2013 and 2014 ASR's as required by the Authority. The accounting separation report is a vital compliance tool which allows the Authority to examine Gibtelecom's business operations.

The Authority concluded the review of the 2013 and 2014 ASR reports by November 2016 and presented no regulatory objections. However, some outstanding compliance issues were highlighted to Gibtelecom so these will be addressed in future reports. Gibtelecom is currently in the process of developing a new ASR model which will be developed over the coming months and it intends to produce ASR reports for 2015 and 2016 simultaneously.

iv. Annual Data Gathering Exercise

In 2016, the Authority embarked on an exercise obtaining statistics from authorised providers. By way of a Notice, a quantitative data request was sent out to all providers requiring them to supply information relevant to their area of business at the end of each quarter. This was done in an effort to improve the Authority's ability to monitor the various markets which make up the electronic communications sector in Gibraltar as well as for reporting and regulating purposes.

The data gathering exercise will also enable the Authority to assess market developments and analyse trends in relation to the different products and services that are currently offered. Given the importance of the data, the Authority will continue this exercise for the foreseeable future.

v. General Authorisation and Register of Authorised Persons

In an effort to update and modernise its internal processes, the Division embarked upon a review of its documents and procedures. A number of possible updates were identified and amongst the first to be actioned was the General Authorisation form and Register of Authorised Persons.

A General Authorisation is required for the provision of electronic communications networks and/or services in Gibraltar. Under the terms of the Communications

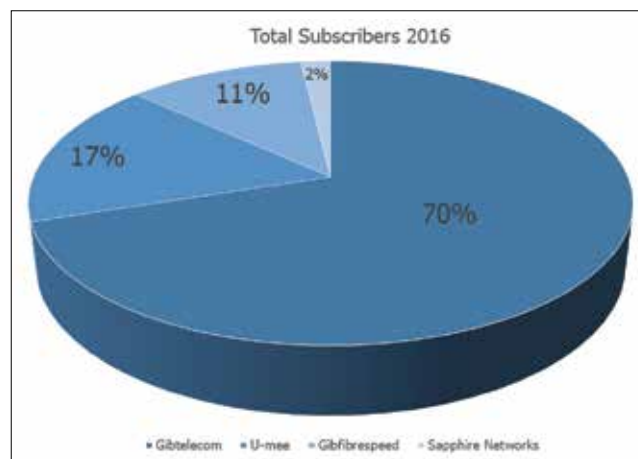
(Authorisation and Licensing) Regulations 2006, operators are free to commence operations once a completed notification has been received. However, the process for notification had been in place for a number of years, without review.

Although the previous notification form was regarded as fit for purpose, it was agreed that a revamp was warranted, particularly when considering the changes in terminology in the sector globally and the advancements seen in the local electronic communications markets.

Together with the new, easy to understand notification form, a new Register of Authorised Persons was also developed and now shows, at a glance, what services are offered by each authorised person as well as contact details, links to company websites and a record of when the Register was last updated.

vi. Statistics and Trends

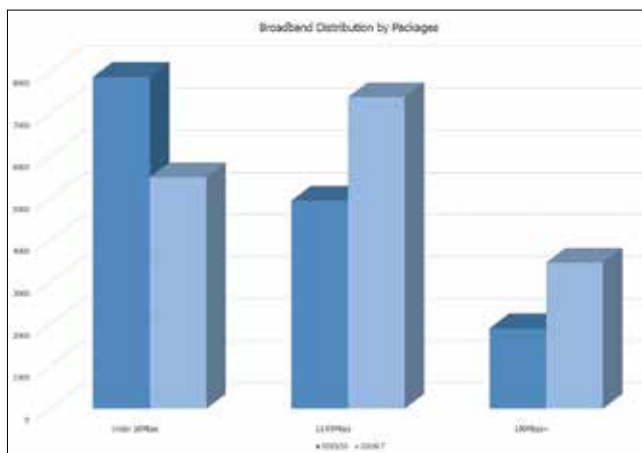
At the end of 2016, the total number of broadband subscribers in Gibraltar increased from 14,716 to 16,357. It would seem likely that this increase is due, in part, to the new residential housing estates being constructed around Gibraltar. Market shares in the residential fixed internet broadband service have also shifted slightly as illustrated in the pie chart below:



Gibtelecom's market share has reduced to 70%, whereas new broadband packages from U-Mee and GibFibreSpeed seem to have attracted substantial subscriber numbers to these alternative providers and this, in turn, has increased their market share to 17% and 11% respectively.

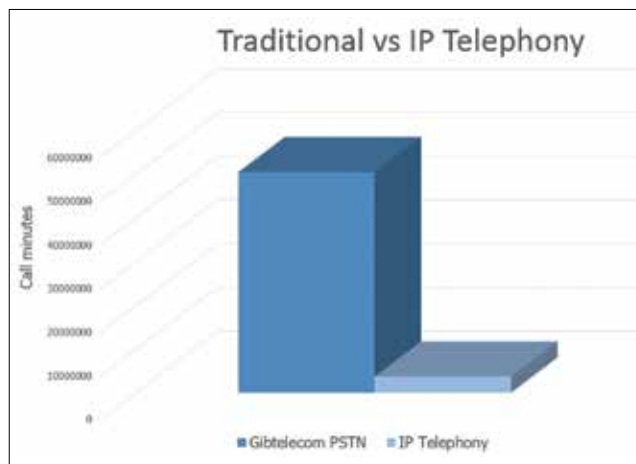
With Gibtelecom upgrading customers to higher broadband speeds at lower prices as well as the wider availability of products from broadband providers such as U-Mee and Gibfibrespeed, subscribers are

now enjoying FTTH broadband with speeds of up to 300Mbps, as well as customisable packages in excess of 300Mbps. The chart below shows 2015/2016 and 2016/2017 distribution of broadband packages in Gibraltar:



The trend towards higher bandwidth packages is evident. However, 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 25Mbps whereas this was around 7Mbps during the last reporting period. It is expected that this median number will continue to increase, as consumers shift to higher bandwidth products on offer, and lower bandwidth packages become obsolete or phased out. 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.

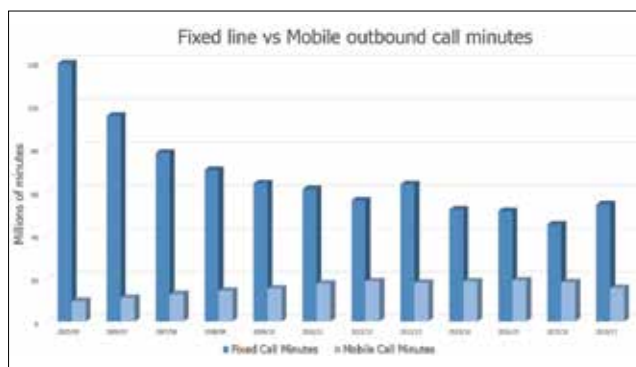
Gibraltar has experienced a small upsurge in the total number of call minutes made via fixed telephony compared to previous years. The chart below shows that traditional telephony call minutes are still much higher than IP telephony. In addition, there is no way of accurately measuring the extent to which over-the-top (OTT) services such as Skype, Facetime etc. may have had an impact. 50.4 million call minutes from traditional telephony has been recorded for 2016 compared to IP telephony which is 3.6 million as shown:



The chart reveals 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.

Fixed call minutes have also experienced a notable decrease in the last 10 years even though, as mentioned above, there has been a slight increase in the number of calls since last year.

This 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 smart devices.



vii. Revenue Collected

During the period 2016/17, 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 £770,653.40 in respect of the administrative charges for network and service providers.

Radio Communications



Introduction

The Spectrum & Operations Division deals with all matters relating to spectrum, radiocommunications, satellite and international coordination as well as internal ICT and facilities management. The Division is responsible for administering the regulatory provision of the satellite services industry. The Division represents the Gibraltar-based operator SES Satellites (Gibraltar) Ltd ("SES-G") at international meetings and forums and ensures it complies with the International Telecommunication Union ("ITU") Radio Regulations and all other international obligations.

As part of its remit under Part VI of the Communications Act 2006, the Authority is responsible for the management and control of the electro-magnetic spectrum. Amongst its duties, the Authority carries out regular site inspection 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 to all users of licensable equipment which emit radio waves.

The Division examines each new satellite project and carries out the required due diligence before the filing is forwarded to the UK Administration for submission to the ITU. The Division assists with the coordination of these satellite networks located in over 20 orbital slots.

The Authority has this year issued an Outer Space Act licence for a new satellite called SES-15. The launch was scheduled for April, but due to recent industrial events at Kourou, French Guiana, it has been delayed until further notice. The SES-15 satellite will replace the AMC-1 satellite at the 129W orbital location providing services to North America, Latin America and the Caribbean.

International Coordination and Participation

i. Satellite Coordination

The geostationary orbit is where the majority of the communication satellites are located. At this distance of 36,000km from the Earth, the physical nature of the orbit causes the satellite to travel at the same speed as the rotation of Earth. This means the satellite would be pointing continuously at the same position on Earth's surface. Conveniently, this means dish antennas on the ground are kept fixed and pointed at a satellite with no tracking required. This therefore makes orbital slots and the associated frequency bands to be used, limited natural resources and they must be rationally, efficiently and economically shared in conformity with the ITU Radio Regulations. The huge benefits of placing a communications satellite in the geostationary orbit has subsequently made it very congested over the years. Any prospective satellites associated with a new filing would need to comply with the regulatory procedures and rules set out by the ITU.

Essentially, all filings can be grouped into two types of services, Fixed Satellite Service ("FSS") and Broadcasting Satellite Service ("BSS"). Once a new filing is submitted to the ITU, the regulatory clock with a 7 to 8 years' timeframe for FSS and BSS respectively will commence.

The ITU will examine the filed parameters to calculate the potential of harmful interference these new satellites could cause to existing satellite networks. When the filing is accepted by the ITU, it will be published in the latest biweekly International Frequency Information Circulars ("IFIC") to inform all other Administrations of the new satellite filing.

This starts off the lengthy process of coordination with the operators identified as potentially affected and numerous exchanges of correspondence and meetings are held to complete coordination. Compromises need to be found and technical parameters adjusted so that satellites can co-exist and avoid interference.

Once efforts have been made to coordinate the filing, these can be notified to the ITU before the regulatory

deadline and entered into the Master International Frequency Register (“MIFR”) which grants it international rights and obligations. When a satellite is placed in the planned orbital slot, it can then bring into use its respective frequency bands.

To date, SES-G has registered 36 filings with the ITU in 20 orbital slots around the geostationary orbit.

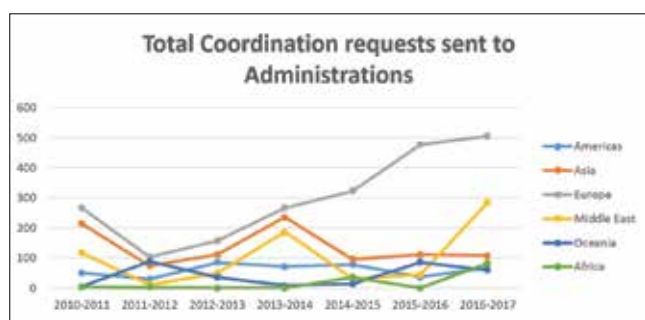
Gibraltar has a mature satellite industry and currently has 9 filings brought into use and notified with the ITU, with most of activity this year going into existing key orbital slots. These SES-G existing networks could potentially receive interference from new incoming filings and the Authority has identified 1,108 satellite networks from different Administrations that could potentially affect SES-G networks.

This year, the Authority has exchanged correspondence with the Administrations of 37 countries and the chart below represent the coordination burden from different regions of the world.

Coordination requests sent to Administrations

When Administrations of other countries submit new filings near the Gibraltar orbital slots, they have the potential to cause harmful interference. The Authority must examine the publications of these new networks and inform the relevant administration that coordination is required.

The coordination objections sent by the Authority with respect to most regions have levelled out. However, the coordination with Europe continues as some administrations submit filings in an already congested orbital arc near UK/Gib orbital slots. The French have accounted for a third of all coordination in Europe. A sharp rise in coordination from the Middle East is also seen, as new emerging entrants appear in the satellite industry, with most coordination coming from the Administration of UAE and Qatar.



	Americas	Asia	Europe	Middle East	Oceania	Africa
2010/11	50	214	267	117	5	4
2011/12	30	74	103	11	88	2
2012/13	84	112	157	49	35	0
2013/14	72	236	267	187	9	0
2014/15	78	96	323	31	13	36
2015/16	37	111	478	44	86	1
2016/17	66	108	506	286	59	83

ii. Commonwealth Cyber Security 17 Conference – London March 2017

The Head of the Division attended this conference. The Commonwealth, built on consensus and mutual support, is an ideal platform to build international cooperation on various aspects of cybersecurity. The CTO’s Commonwealth Cybersecurity Forum brings together cybersecurity stakeholders from across the Commonwealth; from policy makers, regulators and implementing agencies to private sector and civil society. The Forum is a place to showcase expertise, build capacity, present new technologies and develop relationships. Importantly it will map out the future cooperation among Commonwealth countries in Cybersecurity.

iii. Preparations for the World Radio-communication Conference 2019 (WRC-19)

The new ITU-R study period started immediately following the conclusion of the WRC-15 Conference. At that Conference, the agenda for the next World Radiocommunications Conference was formally agreed and the attribution of the Agenda Items to the various ITU-R Study Groups and associated Working Parties and Task Groups were assigned.

Once the structure of the studies at ITU level are known, it is then for the regional bodies to agree their respective parallel organisational structures. In Europe, the European Conference of Postal and Telecommunications Administrations (CEPT) is the body responsible for coordinating the European activities regarding the studies related to the various Conference agenda items. Project Teams have been established in the CEPT to address a linked range of Agenda Items – that is to develop and undertake the necessary technical studies and regulatory text on each Agenda Item and agree European Common Positions (ECPs) and the associated CEPT brief.

The UK regulator, Ofcom, consulted with stakeholders on the WRC-19 Agenda Items with a view to identifying what would be the high, medium and low

priority issues for the UK. Following the consultation, the UK has identified that the high priority issues are allocations above 24.25GHz to IMT(5G), Earth Stations in Motion (ESIM) in the Ka-band and RLANs in the 5GHz band. These issues are also considered high profile agenda items for the Authority. The Authority has been attending the UK WRC-19 preparatory groups and has taken a particular interest in the work being undertaken in IFPG WG1 and IFPG WG3.

In addition to attending these UK preparatory working groups, the Authority has also attended meetings in London of the International Spectrum Stakeholders Briefing (ISSB) group, the Satellite Consultative Committee (SCC), the UK Space Agency Industry Group and the UK Spectrum Policy Forum.

iv. New UK Satellite Filing procedures

Ofcom introduced new satellite filing procedures which came into effect in April 2016. Since the introduction of the new procedures, the Authority has been working closely with SES-G and Ofcom to progress a number of satellite network projects through the new due diligence procedures. As the Authority, SES-G and Ofcom have gained more experience in applying the new procedures, the process is becoming more predictable and easier to navigate. Good progress has been made on several projects in the past few months.

v. Satellite coordination meetings

The Authority was represented at an administration level satellite co-ordination meeting between the United Kingdom and the Russian Federation which was held in Geneva in April 2016. Good progress was made during the meeting with a number of coordination agreements completed.

vi. SES-G Development Plan Review meeting

A meeting was held between the Authority and SES-G in Luxembourg in June 2016 to discuss the Annual Development Plan update for the SES-G satellite filings. The updated plan was reviewed and approved by the Authority prior to discussions with Ofcom.

Regulatory Matters

Below is an overview of regulatory matters dealt by the Division during 2016/17:

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

Eazitelecom, previously trading as Shine, took a decision to temporarily suspend its 2G & 3G services in order to streamline and re-engineer its network, as part of the 4G rollout. After what can be considered a complete overhaul of the company's infrastructure, Eazitelecom, now trading as Limba Telecom, was issued with 2G, 3G & 4G licences in March 2017.

The Authority has been working with Limba Telecom to ensure the reconfigured network and additional base stations operate within the International Commission on Non Ionizing Radiation Protection ("ICNIRP") guidelines and also to ensure that the obligation under "Consultation on the Licensing of 4G Mobile Services & Liberalisation of Mobile Bands in Gibraltar" are met. These are that there is at least a 70% population coverage at launch and that a minimum of 5Mbps download speeds is provided it's to users.

ii. Management of the Electro-magnetic Spectrum

Section 56 of the Communications Act provides that the ownership of the electro-magnetic spectrum in Gibraltar shall "vest exclusively in the Government and the Minister shall be responsible for its management and control", and that 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."

The above-mentioned responsibility 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 electro-magnetic spectrum usage. As part of the management of the electro-magnetic 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 can be found on the Authority's website. All site inspections, spectrum audits and interference investigations are conducted by trained 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 volume of buildings and Gibraltar's topography, at times, locating the source of interference is a mixture of applying theoretical knowledge of radio propagation, and the use of the equipment and educated guessing. The Authority, however, is not responsible for establishing the recommendations for exposure to electro-magnetic emissions. Therefore, the Authority is unable to set emission safety levels, and it has neither the expertise nor the remit, to participate in matters concerning biological or health research. The Authority has, however, been working 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.

iii. 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 2016/17, the following matters were attended to:

iv. TETRA

The Civilian Terrestrial Trunked Radio ("TETRA") service used for the emergency services and run by Gibtelecom, has been suffering from intermittent interference which degrades the quality in a specific area in Gibraltar. Although investigations are ongoing, the Authority is confident the source of the interference will be identified and the matter resolved quickly.

v. 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) & HACA (Higher Council of Audio-visual Communication, Morocco) who dealt with the matter swiftly and the interference issue resolved.

NATS also reported an intermittent interference problem which raises the noise level on their main channel and renders it unfit for purpose. Over a period of two weeks, the Authority, in conjunction with the BFBS, GBC and NATS, conducted various tests. The exact potential root of the problem remains to be discovered and the investigations will continue. It is envisaged that the result will show that the issue is a combination of elements, ageing equipment, close proximity of the FM broadcasting band and occasional extreme weather in the region.

vi. EMF Concerns

The residents of an apartment in Royal Ocean Plaza, where new radio equipment had been installed in the immediate vicinity of their property, were concerned about the alleged high levels of EMF (electromagnetic field) emanating from this. After various investigations and meetings with the relevant parties, the source was identified but it did not relate to the new radio equipment. The radio equipment from an existing installation had developed a fault and was generating spurious emissions which lead to the higher than normal noise levels in different frequency bands which cumulatively were increasing the emissions. At no point were the levels higher than the ICNIRP guidelines, but the equipment owner agreed to replace the faulty equipment.

vii. Advice and collaboration with other agencies

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 various field strength and transmitter site audits at the requests of concerned individuals or groups.

Currently, the Authority is working closely with the Port Authority and the Maritime Administration Office to ensure the protocols to share and coordinate information relating to maritime safety are working seamlessly and efficiently.

viii. 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 2016/17 for each type of licence issued under Part VI of the Communications Act 2006.

Accounting Authorities	£9500.00
AGRS	£373.00
CB Radio	£84.00
Fixed Links	£13,660.00
Mobile	£668,118.00
Paging	£265.00
PMR	£8650.00
Port Ops	£3625.00
Radar	£134.00
Radio Amateur	£396.00
Ship Station Licence	£38,060.00
Wireless Dealers	£2500.00

Furthermore, during the period 2016/17, the Authority renewed six Outer Space Act (OSA) 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 £6,000. A further £1,000 was received as an OSA application fee. An additional Class IV Teleport Facilities Licence (TFL) was issued in May 2016 to SES-G, making it a total to three TFL licenses issued with a combined licence fee of £458,709.00. 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.

ix. 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.

Currently, there are six Gibraltar licensed satellites.

Three of these satellites i.e. NSS-11, SES-7 and SES-9 satellites are located at the 108.2E orbital slot. AMC-18 satellite is located at 105W, the AMC-21 satellite at 125W and the newly licensed satellite SES-15 at 129W orbital location. 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.

x. SES-15

This year, the Authority has issued an Outer Space Act licence for the SES-15 satellite. The satellite was designed and manufactured by Boeing Satellite System and will be launched on a Soyuz launch vehicle from the European Space Agency Spaceport in Kourou, French Guiana.

SES-15 is a Boeing 702SP (small platform) and carries the xenon ion propulsion system (XIPS) for both orbit-raising and in-orbit manoeuvring. It will consist of a hybrid payload with a combination of High Throughput Satellite (HTS) capability multi-spot beams and conventional wide beams. The satellite will serve inflight connectivity and other traffic intensive data application such as VSAT networks and maritime communications. The satellite also carries WAAS payload to augment the US navigation system, GPS and enhance aviation safety.

Information Rights



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 Part 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 2016/17 period, the Division introduced a new category of data protection inspections, referred to as Focused Inspections. Whereas in the traditional inspections an overall high level assessment is undertaken of an organisation’s data processing activities, in a Focused Inspection a detailed assessment is undertaken on a particular area of an organisation’s processing operations. The Focused Inspections are particularly useful when an organisation is seen to fail in a particular area or when the Division identifies a recurring issue in a particular industry or sector.

This year, the Division also experienced an increase of around 40% in the number of data protection queries that it received (and responded to), highlighting the Division’s importance as a point of reference for organisations and the public in general. Further, in the area of guidance, the Division issued its first guidance note on the new General Data Protection Regulation (“GDPR”) that will come into effect in May 2018 and replace the current data protection law. The guidance note is aimed at helping organisations prepare for the new law and was the first in a series that the Division will publish in the run up to May 2018.

Internationally, the Authority successfully became an accredited member of the European Conference of Data Protection Authorities in May 2016. The accreditation was a major achievement for the Division, after seeing its accreditation blocked by the Spanish Data Protection Authority since

the Authority’s application in 2014. The Head of Information Rights also participated as a guest speaker at an International Conference of Data Protection and Freedom of Information in Mexico, organised by the Mexican Data Protection Authority “INFOEM”. Soon after, the Data Protection Commissioner and INFOEM’s Commissioner, signed the Authority’s first ever Memorandum of Understanding (“MOU”) to establish mechanisms for institutional cooperation and collaboration with regards to Data Protection and Freedom of Information.

In addition, the Division 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. Following an invitation to join, the Division has further become a member of an International Working Group that aims to develop Internationally Comparable Metrics in relation to data protection.

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.

This year, the Division has made significant achievements in its international work.

i. Global Privacy and Enforcement Network Sweep, April 2016

Together with 25 other privacy enforcement authorities from around the world, the Division reviewed Internet of Things devices (“Devices”), such as smart sleep systems and internet-connected toothbrushes, considering how well companies communicate privacy matters to their customers.

It was found that the Devices reviewed generally failed to inform users about exactly what personal information they collected and what happens to that information once collected.

The enforcement authorities collectively looked at more than 300 devices. Locally, the Division focused its attention on Devices on sale in local shops or on international websites that delivered to Gibraltar.

Results included:

- 60% of Devices failed to adequately explain to customers how their personal information was collected, used and disclosed.
- 68% of Devices failed to properly explain how information was stored. This included a lack of information on how long the information was stored for, which country it was stored in and in what form it was stored (for example whether the information was on the Device itself or stored in a cloud).
- 72% of companies failed to explain how customers could delete their information off the Device and in many cases, deletion processes were complicated.
- 38% of Devices failed to include easily identifiable contact details if customers had privacy concerns, which was a concern given the amount of information some of the Devices collected.

Concerns were also raised around medical devices that sent reports back to General Practitioners via unencrypted email.

The Commissioner considered the results of this year's Global Privacy Enforcement Network ("GPEN") Privacy Sweep worrying given the amount of information being processed by these Devices, including in many cases sensitive personal data relating to the health of the users and the continued increase in such Devices.

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

ii. British, Irish and Islands Data Protection Authorities Annual Meeting, Malta, June 2016

This meeting is held annually and the Division has

been attending for the past 10 years.

The meeting was hosted by Malta's Data Protection Commissioner, 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 in which each jurisdiction gives an account of the past year's work, followed by discussions on current data protection topics. Amongst other things, the following topics formed part of the discussions:

The GDPR: a discussion centred on how each Data Protection Authority was preparing for the GDPR, a review of guidance provided by the Information Commissioner's Office in the UK and a suggested outline for the implementation of the GDPR.

Processing of Personal Data in the Police Sector: the Data Protection Authorities discussed various Directives regarding the Police Sector, including the Police Directive 2016/680, the PNR Directive 2016/681 and the Data Retention Directive 2006/24/EC.

Specific Data Protection cases: Various data protection related cases were discussed, covering amongst other areas security measures relating to medical records.

Developments on the EU-US Privacy Shield: The Data Protection Authorities discussed general developments and how some companies were still relying on the old Safe-Harbour principles to transfer data to the United States.

Umbrella Agreements: The impact of the EU-US Data Protection "Umbrella Agreement" for EU-US law enforcement cooperation was debated.

A new complaint lodged by Max Schrems: A general overview of the case and developments was provided by the Irish Data Protection Authority.

Freedom of Information: Discussions centred on implementation experiences, common cases and organisational challenges in relation to the implementation of Freedom of Information.

iii. International Conference of Data Protection & Freedom of Information, Mexico, August 2016

On the 11th August 2016, an International Conference of Data Protection & Freedom of Information was held in Toluca, Mexico. The conference was organised by the State of Mexico's Data Protection Authority, INFOEM, and brought together expert speakers from regulatory authorities from different regions,

academics, and representatives of the private sector, to share and discuss experiences. The conference was attended by Information Commissioners, private sector representatives, government representatives, academics, and the general public.

Alongside representatives from the European Data Protection Supervisor, the European Commission, the University of Seville, the Colombian Transparency Secretariat, and TV Azteca, the Authority's Head of Information Rights participated as an expert speaker at the conference, where he shared Gibraltar's perspective on data protection and subsequently formed part of panel discussions, including question and answer sessions with the audience.

The conference addressed a broad range of topics which, amongst other things, included - the balance between data protection and other competing rights and public interests; data protection and privacy in the digital economy; and, the development of access to information legislation in South America vs the development of data protection legislation in Europe, in the context of each region's history.



iv. Brexit & beyond: Implications for the British Crown Dependencies and Overseas Territories, London, September 2016

The seminar was hosted by a collaboration of the Centre for Small States, Queen Mary University of London and Doughty Street Chambers. It consisted of various talks provided by a panel.

In general, the topics covered were of a constitutional nature, although they covered other areas such as Human Rights and referred to the importance of data protection after Brexit.

Amongst the matters discussed, the programme included: the potential effect of Brexit on Human

Rights and Data Protection in the Crown Dependencies and the British Overseas Territories; and, the obstacles to organisations trying to do business in Europe if the territories do not implement the GDPR and/or attain adequacy.

Throughout the discussions the importance of privacy as a Human Right, including data protection, was emphasised, including the need to adhere to European standards to be able to continue to do business in the EU.

v. 38th International Conference of Data Protection and Privacy Commissioners, Marrakesh, October 2016

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.

Amongst the topics discussed at the conference was a Data Protection Education Framework for schools, which was developed by the conference's working group on digital education that the Division is an active member of. The conference resolved to promote the use of the framework internationally, in particular for regulators to encourage governments to implement the framework into national education curriculums.

Other key subjects discussed at this year's International Conference were:

Robotics and Artificial Intelligence: in recent years there have been significant developments in the area of Robotics and Artificial Intelligence, where machines are increasingly able to simulate human characteristics with an ability to "learn". A sector that has seen significant developments involving the use of these technologies is the services sector aimed at the care of the elderly and vulnerable people. Equipped with sensors and connected to internet

platforms, the machines present new benefits. In doing so, the machines capture a large amount of data about people, which is stored and available for analysis in future interactions with the individuals in care. In contrast to human beings who may forget or not record every detail that may be spoken about with a patient, these machines are capable of tracking and “remembering everything” and pose new challenges for the consent model of data collection and the security of information. Furthermore, a key issue arising out of “machine learning” is the inability to predict the outcome of a machine’s use of data, and therefore the risks to the data subject.

Encryption: nowadays, encryption is an important information security tool, particularly to protect personal data from those who wish to intercept or manipulate personal data when it is being transmitted, but also to protect data at rest on servers from those who want to steal or corrupt it. However, encryption is a challenge to law enforcement agencies with lawful authority to intercept communications, but without the technical means to act on that lawful authority due to strong encryption. The conference debated the arguments for the introduction of vulnerabilities into encryption systems, to assist law enforcement, and the arguments against the introduction of vulnerabilities (in particular that it would result in the reduction of security for everyone against those wanting to intercept, steal, or corrupt data).



vi. 28th EU Data Protection Case Handling Workshop Podgorica, Montenegro, October 2016

The Authority was invited to participate in the workshop, which brought together practitioners from European Data Protection Authorities, to discuss and share experiences in the investigation and handling of data protection cases.

Throughout the 2 day workshop, a broad range of topics were discussed, including case handling under the GDPR, video surveillance, and mobile health applications and devices.

The Division put forward as a topic for discussion the use of cookies by websites. The discussion focused on the need for website operators to be transparent about the processing of personal data through the use of cookies, and shared the Division’s experience in the investigation of cases locally.

vii. Preparing for the EU General Data Protection Regulation, London, March 2017

A member of the Division attended an event which focused on the upcoming GDPR, which comes into force on 25th May 2018. The event focused on key changes to the data protection law, such as: Accountability, Data Protection Officers, Privacy Notices, the Expansion of Rights of Individuals, and data breach notification.

Regulatory Matters

The following is an outline of the regulatory matters in which the Division has been involved in for the period 2016/17.

i. 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 2016/17, in total 58 new applications

for registration or changes to existing applications were received. This equated to a revenue of £1160.00.

ii. Measured Activity

The Division's three main regulatory functions are inbound enquiries, investigations and inspections. Noteworthy developments occurred in the areas of inbound enquiries and inspections, which are detailed in the following pages.

• Inbound Enquiries

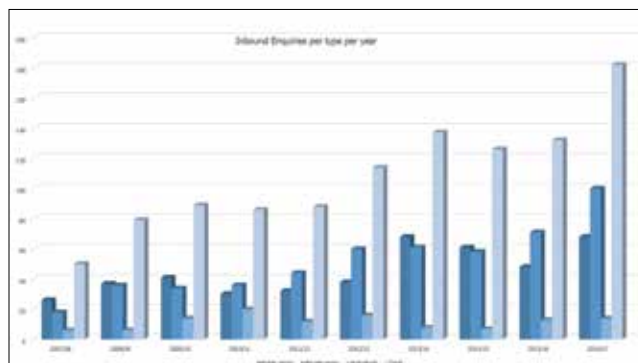
This year, the Division saw a significant increase in inbound enquiries when compared to last year's total of 132; namely, this year the total number of inbound enquiries reached 184, signifying an increase of around 40%. The total amount of enquires was broken down as follows:

Inbound enquiries from the Public Sector: 68

Inbound enquiries from the Private Sector: 102

Inbound enquiries from the Individuals: 14

Whilst the number of enquiries from individuals remained the same, the number of enquiries from the public and private sectors increased significantly, suggesting increased compliance efforts by organisations. The following graph illustrates the trends in inbound enquiries received by the Division during the past ten years and illustrates this year's significant rise. The increased work in this area highlights the Division's importance as a point of reference for organisations and the public in general.



• 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 under 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 2016/17 saw the Division complete 25 investigations, which are summarised in the table below.

Data Controller	Data Protection concern	Investigation outcome
Bray Properties Limited	Unlawful disclosures of CCTV images	Contravention of the DPA identified
Waterbabies Nursery	Failure to comply with a Subject Access Request and not having appropriate security measures to protect the footage processed by a CCTV system	Contraventions of the DPA identified in relation to both the Subject Access Request and the security measures in place to protect the footage processed via the CCTV System
Marina Bay Management Limited	Use of CCTV without giving appropriate notice to individuals and recording areas (and personal data) in excess of what is necessary	Contraventions of the DPA identified in relation to both the notice given to individuals about the use of CCTV and the recording of areas in excess of what is necessary
Profitable Play Limited	Failure to comply to with a Subject Access Request	No contravention of the DPA identified

WHG (International) Limited	Unlawful processing of personal data	No contravention of the DPA identified – complainant did not cooperate to progress with the investigation
WHG (International) Limited	Failure to comply with a Subject Access Request	No contravention of the DPA identified
Fairhomes (Gibraltar) Limited and Sambia Limited	The instigating or sending of unsolicited direct marketing emails and the unlawful obtaining of information	Contraventions of the DPA and the Communications (Personal Data and Privacy) Regulations 2006 (the “Privacy Regs”) identified
H.M. Customs	Unlawful obtaining and retention of personal data, and failure to comply with a Subject Access Request	Contraventions of the DPA identified in relation to the notice given to individuals when collecting their information and the Subject Access Request Further detail provided in the case studies section
H.M. Customs	Not having appropriate security measures to protect the footage processed by a CCTV system	Contravention of the DPA identified Further detail provided in the case studies section
Gibraltar Taxi Association	Unlawful obtaining and disclosure of personal data	Contravention of the DPA identified
Ibex Insurance Services Ltd	Failure to comply with a SAR and a request for the rectification of data	No contravention of the DPA identified Further detail provided in the case studies section
Beach View Terraces Management Limited	Unlawful disclosure of CCTV footage containing personal data and not having appropriate security measures to protect the footage processed by a CCTV system	Contraventions of the DPA identified
“Mr Party Perfect”	Failure to comply with a Subject Access Request	Complaint fell outside the scope of the DPA
Oxford Learning College	Unlawful use of CCTV	No contravention of the DPA identified – complainant did not cooperate to progress with the investigation
Individual P	Unlawful obtaining of personal data	Matters fell outside the scope of the DPA
Gibraltar Car Parks Ltd	Failure to comply with a Subject Access Request	Contravention of the DPA identified
Utopia Enterprises (Gibraltar) Limited	Use of CCTV without giving appropriate notice and recording areas (and personal data) in excess of what is necessary	Contraventions of the DPA identified Further detail provided in the case studies section
Tourbillon Limited	Failure to comply with a SAR	Contravention of the DPA identified
Individual Z	An individual unlawfully took information from employer	Contravention of the DPA identified
EU Lotto Limited (2 separate cases)	The instigation of unsolicited direct marketing texts	Contravention of the Privacy Regulations identified
Zenith Insurance PLC	Failure to comply with a SAR	No contravention identified
H.M. Customs	Use of CCTV without appropriate notice	Contravention of the DPA identified
Mons Calpe Mews Management Limited	Use of CCTV without appropriate notice	Contravention of the DPA identified
International Commercial Centre Management Limited	Use of CCTV without appropriate notice	Contravention of the DPA identified

From the table on the previous page, summarising the investigations completed, four investigations have been selected as 'case studies' for this year's report, as an illustration to the investigatory work undertaken by the Division.

iii. Case studies

- Case Study 1 – Unlawful disclosure/obtaining and unsolicited direct marketing involving Fairhomes (Gibraltar) Limited, Ocean Village Properties Ltd, and Sambia Limited

A complaint was received from an individual (the "Complainant") against Fairhomes (Gibraltar) Limited ("Fairhomes"). The Complainant alleged that Fairhomes disclosed his personal data, including his contact details (the "Contact Details"), to Sunborn (Gibraltar) Resort Limited ("Sunborn") and Sambia Limited (the "Cuban Bar") without his consent, a result of which he was receiving electronic marketing material from both entities (the "Direct Marketing Emails"). The Complainant further alleged that he was still receiving direct marketing despite his request for the marketing to stop.

The Commissioner undertook an investigation which concluded that Fairhomes had not disclosed the Contact Details to the Sunborn and the Cuban Bar. However, whilst the Complainant had initially provided the Contact Details to Ocean Village Properties Limited ("OVP") as part of a reservation agreement for a property, Fairhomes had obtained the Contact Details from them without the knowledge and consent of the Complainant, in breach of section 6(1)(a) of the DPA, which requires data controllers to obtain and process personal data fairly and lawfully.

In relation to the direct marketing, the Commissioner rejected Fairhomes' view that the Direct Marketing Emails were justified on the basis that the Complainant bought into the Ocean Village "lifestyle" and that the Direct Marketing Emails were therefore in respect of similar products and services, as permitted by Regulation 23 of the Communications (Personal Data and Privacy) Regulations 2006 ("Privacy Regs"). It was concluded that the Contact Details were obtained for the purchase of a property with a separate legal entity to Fairhomes, and in any event restaurants and hotels are not similar products and services.

It was found that whilst Sunborn were not aware of the Direct Marketing Emails, the Cuban Bar provided no evidence to suggest that it was not aware of them.

Further, whilst Fairhomes and the Cuban Bar are independently accountable entities, they share the same directors and management, which suggests that both entities were aware, and part of, the direct marketing activity.

The Commissioner therefore concluded that Fairhomes and the Cuban Bar sent or instigated the sending of the direct marketing without the Complainant's consent in breach of Regulation 23 of the Privacy Regs. Further, the use of the Contact Details for direct marketing purposes did not meet any of the conditions in section 7(1) of the DPA, for the legitimate processing of personal data. Therefore, Fairhomes processed personal data in contravention of section 7 of the DPA.

Additionally, Fairhomes contravened Regulation 24 of the Privacy Regs by not clearly identifying itself in the Direct Marketing Emails which were received by the Complainant.

With regards to the Complainant's request for the marketing to stop, the Commissioner concluded that Fairhomes contravened section 17(1) of the DPA by failing to comply with the Complainant's request and stop the direct marketing within the 28 day period provided by the DPA. Fairhomes also contravened section 17(2) of the DPA by not deleting the Complainant's Contact Details within the 28 days provided by the DPA, and also contravened section 17(3) of the DPA for not informing the Complainant in writing of the action taken on his request within the required 35 day period provided by the DPA.

In view of the above mentioned contraventions of the DPA and the Privacy Regs, the Commissioner engaged with Fairhomes requesting them to review their arrangements and take appropriate remedial action to improve compliance and minimise the risk of future contraventions of the DPA and the Privacy Regs. The Commissioner also requested Fairhomes to delete the Contact Details of the Complainant from their records and to review the contact details that it holds of other individuals for the purposes of direct marketing to ensure that these have been obtained in conformance with section 6(1)(a) of the DPA.

Following the Commissioner's decision, Fairhomes confirmed that it had reviewed their arrangements and deleted the Contact Details of the Complainant from its records. Fairhomes also confirmed it had reviewed the contact details that it holds of other individuals for the purposes of direct marketing and deleted those which had not been obtained in conformance with

section 6(1)(a) of the DPA.

- Case Study 2 – The HM Customs did not have appropriate security measures to protect the personal data processed by its CCTV System from being deliberately or accidentally compromised

The Commissioner became aware of an incident concerning images of CCTV footage (the “Images”) that appeared to originate from a CCTV system run by HM Customs Gibraltar (“HM Customs”), which had been made publicly available on Youtube.com and circulated using various social media platforms.

The Commissioner undertook an investigation which established the following:

The Images related to an incident involving a man driving a Guardia Civil vehicle across the Gibraltar land frontier. The Images contained personal data which had been collected by HM Customs for the purposes of monitoring activity in a specific location.

After engaging with the Commissioner, HM Customs confirmed that at least one individual was able to access the Images and record them using a mobile device. The access to, the recording of, and the disclosure of the Images was not authorised by HM Customs. Further, after carrying out an internal investigation, HM Customs were unable to identify the individual(s) who recorded and disclosed the Images. However, HM Customs had identified an additional instance where an unauthorised individual had accessed and recorded the Images using a mobile device. It was established that at least two unauthorised recordings of the Images had been made.

The Commissioner therefore concluded that the Images were processed 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.

Whilst HM Customs had introduced some additional measures to prevent a repetition of such occurrences, the Commissioner was of the opinion that, without clarity in the form of a written data protection policy, HM Customs would continue to be in breach of section 6(1)(d) of the DPA, namely because of the lack of clear rules on what measures are in place to protect personal data, and what must be done to ensure compliance with such measures.

Following the Commissioner’s decision, HM Customs agreed, by verbal undertaking, to produce and make available to the Commissioner, a written data protection policy (the “Policy”) which would, amongst other things, outline HM Customs’ security measures to ensure compliance with section 6(1)(d) of the DPA.

Having failed to comply with the above, the Commissioner issued an Enforcement Notice (the “Notice”), requesting that HM Customs produce and submit the Policy to the Commissioner once this was undertaken. The Commissioner also requested for HM Customs to take all reasonable steps to ensure that all staff members and any other individuals who may have access to any personal data processed by HM Customs, are aware of the Policy.

The Commissioner received written confirmation from HM Customs advising that the Notice had been complied with and a copy of the Policy was provided to the Commissioner’s office. The Commissioner reviewed the Policy and was satisfied with the progress made by HM Customs to ensure compliance with the DPA.

- Case Study 3 – Beach View Management Terraces Limited. Unlawful disclosure of CCTV footage containing personal data and appropriate security measures to protect personal data not in place

The Commissioner became aware of an incident concerning images of CCTV footage (the “Images”) that originated from a CCTV system run by Beach View Terraces Management Limited (“BVT”) which were posted on Facebook by a member (the “Individual”) of the Beach View Terraces Residents Committee (the “Committee”).

The Commissioner undertook an investigation which concluded that BVT granted the Individual with authorised and unlimited access to the CCTV system without any guidance or rules regarding its use, and therefore, BVT did not have appropriate organisational and technical security measures in place to protect against the unlawful disclosure of the Images. Consequently, BVT’s processing of personal data, through the CCTV System, was in contravention of section 6(1)(d) of the DPA.

Further, the Commissioner concluded that the disclosure of the Images on Facebook was incompatible with the purpose of the CCTV System and therefore, BVT processed personal data in contravention of section 6(1)(c)(ii) of the DPA.

In addition, the CCTV signs displayed within the residential estates of Beach View Terraces did not identify BVT as the data controller of the CCTV system, and therefore did not comply with the transparency requirements in section 10(2) of the DPA.

Following the Commissioner's decision and intervention, BVT reviewed their arrangements to improve compliance with the DPA.

- Case Study 4 – Utopia Enterprises (Gibraltar) Limited. Use of CCTV without appropriate notice and recording areas (and personal data) in excess of what is necessary

A complaint was received from a person (the "Complainant") against Utopia Enterprises (Gibraltar) Limited ("Utopia") (previously known as McCarthy Enterprises (Gibraltar) Limited) regarding the installation and use of CCTV cameras by Utopia, located in the area between Wellington Court and Northview Terrace, and, in particular, Koehler Ramp.

The Commissioner undertook an investigation which concluded that (other than two cameras, which focused on the property of Utopia) the CCTV cameras captured images of public areas, which were considered excessive for the protection of property and the provision of security and prevention of crime relating to Utopia, in contravention of the DPA. Further, it was also concluded that the CCTV signs used by Utopia did not identify the identity of Utopia as the data controller, and therefore, processed images in contravention of the DPA.

As a result of the investigation, and after a failure by Utopia to comply with several requirements set out by the Commissioner when concluding the investigation, the Commissioner issued an Enforcement Notice (the "Notice") under section 26 of the DPA that required, amongst other things, that Utopia cease the processing of CCTV footage from the cameras (other than the two cameras, which focused on the property of Utopia), and amend the CCTV signs used to provide data subjects with the information specified in section 10(2) of the DPA.

The Commissioner received written confirmation from Utopia that the CCTV cameras (other than the two cameras which focused on the property of Utopia) had stopped being used. However, Utopia, had not, within the specified timeframe, amended the CCTV signs as per the terms of the Notice. Consequently, in failing to comply with the terms of the Notice, Utopia committed an offence under section 26(8) of the DPA.

Prior to the Commissioner's instigation of legal proceedings, Utopia complied with the terms of the Notice. As a result, the Commissioner decided not to progress the proceedings. However, the Commissioner recorded Utopia's offence under the DPA and will take this into consideration should any future contraventions of the DPA be identified.

iv. Enforcement action

The investigations listed in the foregoing were predominantly instigated by the Division on receipt of a complaint. The Commissioner's actions when a contravention is identified is subject, and proportionate, to the circumstances of each case. In most cases during the period reported on, data controllers cooperated and resolved to review their arrangements to ensure compliance with the DPA and in accordance with any requests from the Commissioner.

In the more severe cases, the Commissioner would ask the data controller to sign an undertaking where the data controller commits to carry out specific tasks to improve compliance. In circumstances where a data controller does not satisfactorily cooperate with the Commissioner's requests, the Commissioner would use his Enforcement powers by issuing an Enforcement or Information Notice, and if necessary instigate court proceedings. The following actions were taken this year:

One Information Notice was issued in the investigation involving the following data controllers:

- The Gibraltar Taxi Association (case concerning the unlawful obtaining and disclosure of personal data, namely relating to the GPS data collected by Taximeters);

Enforcement Notices were issued in investigations involving the following data controllers:

- HM Customs (case concerning the HM Customs not having appropriate security measures to protect the images captured and recorded by their CCTV System from being deliberately or accidentally compromised); and
- Utopia Enterprises (Gibraltar) Limited (case concerning the use of CCTV without giving appropriate notice and recording areas (and personal data) in excess of what is necessary).

v. 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.

Following from last year's commitment to further develop the Division's inspections programme, the Division introduced a new category of data protection inspections, referred to as a Focused Inspection. Whereas in the traditional inspections an overall high level assessment of an organisation's data processing activities is undertaken, in a Focused Inspection a detailed assessment is undertaken on a particular area of an organisation's processing operations. The Focused Inspections are considered to be particularly useful when an organisation is seen to fail in a particular area or when the regulator identifies an issue recurring in a particular industry or sector.

This year the Division completed two Focused Inspections and initiated the inspection of six data controllers in the Fitness sector and nine data controllers in the Real Estate sector. The inspections relating to the Fitness sector and the Real Estate sector are in progress at the time of writing, and due for completion in the first quarter of the financial year 2017/18. These will be reported on next year.

a) Focused Inspection: Driver and Vehicle Licensing Department

The Division undertook a Focused Inspection of the security measures employed by the Driver and Vehicle Licensing Department ("DVLD") to protect personal data. The Focused Inspection was agreed in advance between the DVLD and the Division, as part of the DVLD's undertaking to review its security measures to ensure compliance with the DPA.

On the whole, the Commissioner noted progress made by the DVLD in developing and documenting its Security Policy which will assist the DVLD establish, demonstrate, and test its data protection arrangements. However, the Commissioner provided a list of recommendations in his Inspection Report to the DVLD, for incorporation into its arrangements to ensure more effective compliance with the DPA. Some of the recommendations were the following:

Employee data - Other than reference to data held about licence holders and vehicle owners, the DVLD's security policy was to be reviewed to include

employee data;

Accountability - The DVLD's security policy should include information about the roles and responsibilities of the individuals nominated as being accountable for the management of the DVLD's security measures to protect personal data;

Physical security – clear desk policy. Whilst the DVLD's policy referred to a clear desk policy, during the Focused Inspection it was found that in various rooms, documentation was stacked on the floor and/or desks, and it was established that these remained there during out of office hours due to the lack of lockable filing cabinets (or other storage facilities). The DVLD should ensure that the clear desk policy is adhered to, and that appropriate storage should be acquired or other solutions sought e.g. where possible, purge the manual filing system to eliminate documentation that is no longer required to free up space and/or scan documents to implement an electronic filing system in replacement of the manual filing system; and

Staff training - The DVLD should include references to systematic awareness raising or training arrangements on the protection of personal data.

b) Focused Inspection: Primary Care Centre

In respect to the protection of personal data in health care, it is important to recognise that individuals share information with doctors in confidence, expecting them not to divulge the information and to handle the information securely and responsibly. The trust is such that individuals share information with doctors which they may not share with their family, friends or partners. The Commissioner therefore considers that privacy, including the protection of personal data, is essential to the trust and integrity of the patient/doctor relationship, and is therefore fundamental not just for individuals but for the good of society.

The Division undertook a Focused Inspection of the security measures employed by the Primary Care Centre (the "PCC"), to protect personal data. The Focused Inspection formed part of the PCC's commitment to review its security measures to ensure compliance with the DPA.

The Focused Inspection involved a visual inspection at the PCC and a review of a draft policy developed by the PCC, and considered various areas of information security that the Commissioner considers particularly important and can be summarised as: management and organisation information security measures; training and awareness; physical security; and

computer security.

On the whole, the Commissioner welcomed signs of progress made by the PCC in developing and documenting its policies and procedures to protect personal data, which will assist the PCC establish, demonstrate and test its data protection arrangements concerning security.

However, in his Inspection Report to the PCC, the Commissioner included various recommendations to ensure more effective compliance with the DPA. Some of the recommendations can be summarised as follows:

Risk Assessments - The PCC should periodically assess the nature of the personal data that it processes, and the harm that may result from its improper use, or accidental loss or destruction, so that it can determine the measures that it should take to protect personal data;

Documentation - The PCC should document the information security measures that it has in place;

Accountability - Staff with specific data protection or information security responsibilities should be adequately trained and qualified e.g. certification, diplomas, experience etc.

Outsourcing - The PCC should document its information security controls to ensure the protection of personal data where the data processing is outsourced;

Data breach management - The PCC should log and monitor data breaches including their type, volume, area affected, damage caused, and any other information to identify trends and help prevent recurrences;

Disciplinary measures - The PCC should implement and document disciplinary policies and procedures to ensure that staff adhere to the PCC's data protection policies;

Training and awareness - The PCC should introduce a log of training or awareness raising activities undertaken by each employee and implement internal guidance for staff;

Physical security - The Focused Inspection found deficiencies in the PCC's access controls to restricted areas. The Commissioner recommended the implementation of appropriate access controls including their effective supervision and enforcement.

Secure storage of manual files - Deficiencies were encountered in the storage of manual files where records were found to be stored in unlocked filing cabinets, as well as in open pigeon holes and in cardboard boxes on the floor. The Commissioner urged the PCC to implement measures to ensure that sensitive personal data contained in manual records are adequately organised and secured. With regards to boxes on the floor due to the lack of filing cabinets, as well as records stored in pigeon holes and filing arrangements that are not lockable, appropriate lockable storage should be acquired or other solutions sought e.g. where possible, scan documents and keep in a secure electronic filing system as a replacement to the manual filing system.

Tracking of patient records - It was found that in many instances the PCC was not able to effectively track the whereabouts of its patient records contained in the PCC's manual filing system. The Commissioner recommended the introduction of a system to track the movements (both internal and external) of patient records to ensure that at any time it is able to establish the location of a record. Furthermore, the Commissioner recommended the introduction of a system that logs all instances of manual records that are lost or cannot be found in accordance with its Data Breach Management Policy.

User access controls - The PCC should implement and document a policy on user access controls to manage authorised access to personal data on a "need to know" basis, with each individual being assigned unique credentials to access the system. User permissions should be restricted to the absolute minimum required for the user's role.

Logging and audit trails - The Commissioner recommended the implementation of appropriate logging and audit trail policies and procedures relating to user activity on a system, to protect personal data. The implementation of a mechanism that logs user activity is an important measure to identify inappropriate use of information by staff as well as external attacks. Where an organisation processes large volumes of data, in particular sensitive data, it is advisable that it introduces an alarm system that reports on suspicious or malicious activity on a computer or network. Without appropriate mechanisms to monitor user activity by assessing logs and audit trails, access controls can be undermined.

Encryption - The use of Encryption to protect data, particularly when it is transferred or communicated

between individuals (e.g. via email) or stored in removable devices (e.g. USB drives).

The Commissioner intends to undertake a further inspection of the PCC during the period 2017/18.

c) The Fitness sector

At the time of writing, an inspection of the Fitness sector in Gibraltar was in progress and due for completion in the second quarter of 2017. The data controllers involved in the sector inspections are the following:

- Leisure Centre Gym
- Peak Gym Gibraltar
- Strength Factory
- Ocean Village & Atlantic Suites Health Club
- Sunborn Infinity Spa & Fitness Centre
- Fit4Life Medical Centre

d) The Real Estate sector

At the time of writing, an inspection of the Real Estate sector in Gibraltar was in progress and due for completion in the second quarter of 2017. The data controllers involved in the sector inspections are the following:

- Richardsons Chartered Surveyors, Estate Agents & Valuers
- BMI Group
- Bray Properties Ltd
- Mulberry Real Estate
- Hills Properties Ltd
- GMI International Homes Ltd
- Chestertons Gibraltar
- Savills Gibraltar
- Property Zone Gibraltar

Other operators in the Real Estate sector will be inspected as part of next year's inspections programme.

vi. Control Your Privacy Campaign

The Division's Control Your Privacy campaign entered its fourth year since its launch in January 2014. The campaign involves a combination of activities, which can be summarised as comprising of 1) an awareness raising program for school students, 2) a social media campaign, 3) an awareness raising event "in town",

and 4) workshops for organisations.

a) Awareness raising programme for school students

A campaign for schools has progressively developed to establish a yearly awareness raising framework involving middle and comprehensive schools in Gibraltar. In this respect, members of the Division attend the schools to deliver presentations to students, followed by a question and answer session. Students are also asked to complete a privacy survey. This year the Division recorded the participation of around 800 students between the ages of 11 and 18.

b) Social Media Campaign

The Division uses the Authority's social media platform to disseminate advice and information, and engage with the general public. Further to ad hoc advice and social media messages based on "current news", the Division has developed specific social media campaigns that run for a number of weeks, which focus on a particular subject. For example, this year the Division run a "Know Your Rights" campaign, aimed at individuals, where each week the Division would post advice on a chosen Data Protection Right. This campaign was followed by a "Know Your Responsibilities" campaign, aimed at organisations, which focused on the obligations of organisations under the DPA.

#5 of 6 – Right to have incorrect personal information rectified or destroyed

- an individual has a **Right** to have inaccurate or incomplete information that is held about them rectified, erased or blocked.
- this **Right** is invoked via a request to the data controller, who must rectify, erase or block the data within 28 days of receipt of the request.
- Where a data controller complies with a request, they must, in writing, notify the individual within 35 days of receipt of the request.
- this **Right** allows an individual to complain to the Data Protection Commissioner if the data controller fails to comply with the request.

The above is a summary of a data protection right. For more detailed advice please contact our office.
privacy@gra.gi (+350) 200 74636

c) Data Protection Day

Following a practice established in previous years, the Division held 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. The event was supported by other organisations who attended the event, the Citizen's Advice Bureau, the Royal Gibraltar Police, and the Youth Service.

This year, the event was held on the 28th January

2017, to coincide with “Data Protection Day”. Data Protection Day is an annual event celebrated internationally to commemorate the importance of privacy and data protection.



d) Workshops for Organisations

In addition to the activities mentioned in the foregoing, the Division also arranges Data Protection workshops, where the Division delivers a presentation followed by a question and answer session. The workshops provide an overview of data protection law, and are normally arranged at the request of an organisation that wants to train or raise data protection awareness amongst its staff.

This year, the Division held the following workshops:

- HMGoG – five workshops with a combined total of around 200 participants from Gibraltar’s public sector. The workshops were arranged by the Human Resources Department.
- Royal Gibraltar Police – three workshops with a combined total of around 60 participants.
- The Teachers Union – one workshop was arranged with the Gibraltar Teachers Association, predominantly involving head teachers, deputies, and heads of departments, with a combined total of around 20 participants.



vii. 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 together with the infrequent 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.

Broadcasting



Introduction

The Broadcasting Division's role and duties are contained in the Broadcasting Act 2012 (the "Act"). The Division's main responsibilities are to grant and enforce licences to broadcasters, to regulate matters on broadcasting standards, to issue codes of practice and to encourage the promotion of media literacy.

There are currently two radio broadcasters and two television broadcasters in Gibraltar. The radio broadcasters are; Radio Gibraltar, which has a long history and has been providing a regular service since 1958, and the British Forces Broadcasting Service ("BFBS"), provided by the Services Sound and Vision Corporation ("SSVC"), and has been broadcasting in Gibraltar since 1961.

The Gibraltar Broadcasting Corporation ("GBC") is the sole public service broadcaster and was established in 1963 with the amalgamation of Gibraltar Television and Radio Gibraltar. GBC currently provides a digital television broadcasting service on DVB-T and analogue radio services on MW and FM, and since December 2012, digital audio broadcasts on DAB+.

The second television broadcaster also transmitting from Gibraltar's Digital Terrestrial Television platform is Al-Jazeera Media Network. Al-Jazeera Media Network is currently broadcasting a 24-hour English-language news and current affairs television channel.

The Division does not only licence and regulate these broadcasters, but is also responsible for providing guidance to consumers and other users of the broadcasting services in Gibraltar. In November 2016, the Division embarked on its first Awareness Campaign which started with a Radio Audience Survey, primarily conducted via face-to-face interviews with the public. The direct interaction with the public allowed the team to raise awareness and promote the Division's roles and responsibilities, as well as provide concerned individuals with additional information regarding broadcasting standards and the complaints procedures. The Awareness Campaign is an ongoing project which will continue to develop significantly. The Division is currently liaising with the Department of Education to introduce a media literacy campaign in comprehensive schools.

International Participation

Participation at international meetings is invaluable to the development of best practices in the regulation of broadcasting standards. Such events are fundamental to the Division as they provide an excellent opportunity to network with regulators from other jurisdictions. Most importantly they provide robust platforms for regulators and industry experts to standardise, complement and more importantly address the challenges faced by the world of broadcasting regulation.

i. Working group to discuss the Charter of the Mediterranean Network of Regulatory Authorities ("MNRA"), 19th May 2016, Valetta, Malta

The Chief Executive Officer, along with another member of the Division, attended the meeting in Malta to discuss the redrafting of the MNRA's Charter. This was a small working group of regulators from Croatia, Cyprus, France, Moldova, Morocco, Portugal and Spain.

This one-day meeting was very productive and was of major importance for the continuation of the MNRA. The Authority proposed substantial improvements to the Charter and was tasked, along with the host country Malta, and France, to redraft the Charter and have it finalised in time for the technical meeting which would be held in Madrid, Spain, in July 2016.

ii. 43rd European Platform for Regulatory Authorities Meeting ("EPRA"), 25th - 27th May 2016, Barcelona, Spain

EPRA meetings take place bi-annually and the Authority has been attending since 2006. This conference continues to be a valuable event in the Division's calendar, as it provides an excellent opportunity to network with other European authorities facing similar regulatory issues within the broadcasting industry.

The 43rd EPRA meeting took place in Barcelona between the 25th and 27th of May 2016 at the invitation of the Catalan Audiovisual Council (CAC). On this occasion, approximately 175 delegates from over 50 regulatory authorities in more than 45 European countries gathered to exchange experiences and best practices concerning internal processes relating to the governance, the functioning, and the daily operations

of media regulators – ultimately to encourage independent, accountable and efficient regulation.

Two members of the Division attended the event to assess and better understand how recent changes in the broadcasting industry can impact the role played by regulators. A variety of topics were presented with the first plenary session entitled “Is there still a future for free-to-view TV?” where a panel of expert speakers focused on the societal, economical and technical implications of the ongoing re-allocation of broadcasting spectrum for audiences and service providers.

One guiding principle running through the meeting was to provide audiovisual regulators with keys to better deal with the complexity of the convergent media landscape, highlight interrelationships with other sectors and raise the awareness of emerging issues and regulatory challenges. One of the working groups entitled “Media in Time of Crisis” discussed terrorism, migration and new lines of conflict that challenge regulators in new ways and brainstormed ideas on the best possible way of understanding conflict reporting and the issues at stake.



Parallel working groups focusing on compliance and enforcement of policies, including the protection of minors also formed part of a round-table debate entitled “Regulation of Reality and Talent Shows”.

In this EPRA meeting the Division also saw, first hand, the original proposal made by the European Commission for an updated Audiovisual Media Services Directive (AVMSD) which is to be implemented in due course.

iii. 10th Mediterranean Network of Regulatory Authorities (“MNRA”) Technical Commission Meeting, 1st July 2016, Madrid, Spain

The MNRA was originally created following a proposal from 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.



The 10th MNRA Technical Commission Meeting took place in Madrid, Spain at the invitation of the Spanish National Commission of Markets and Competition (CNMC). Two members of the Authority attended this meeting and actively discussed the study presented by the Consejo Audiovisual de Andalucía (CAA) on Sexist Stereotype in Commercial Communications. A second working group delivered by the Croatian Electronic Media Agency (AEM) focused on Gender Equality in Audiovisual Sports Programmes.

To conclude the meeting, the Broadcasting Authority of Malta presented the amendments to the Charter and ways of improving the network and its future.

iv. 44th EPRA meeting, 19th – 21st October 2016, Yerevan, Armenia

The 44th EPRA meeting took place in Yerevan, Armenia, over a two day period from the 19th to 21st October 2016 at the invitation of the Armenian regulator. Approximately 126 delegates representing the totality of 42 regulatory authorities from 40 European countries came together to discuss the current issues of audiovisual media regulation in Europe and exchange information on issues of common interest.

Two members of the Division attended this event which focused on the perspectives and business models of free-to-air content provisions in Europe. Participants examined and further explored the regulatory policies, strategies and methods which each national regulatory authority would enforce in this ever-changing media environment.



During the event, participants were allocated to one of the three parallel working groups which considered a series of issues with the first being “Media in terms of crisis: The role of regulatory authorities”. This working group focused on the particular role that the media regulators play in the techniques and persuasion tactics used in certain programme genres particularly those uncovering the current turbulent times of crisis and tragic events in Europe. The second working group concentrated on discussing practical examples of where the boundaries between editorial content and commercial communications are to be found and the third group session provided participants with a broad overview on the definition of the platforms, their scope, the market state, the economic issues they raise and the challenges arising in terms of regulation.

v. 18th Mediterranean Network of Regulatory Authorities (MNRA) Plenary Meeting, 17th – 18th November 2016, Barcelona, Spain

The 18th MNRA Plenary Meeting which was chaired by the President of the Croatian Electronic Media Agency took place in Barcelona, Spain on the 17th and 18th November 2016 at the invitation of the Spanish Commission of Markets and Competition. This Plenary Assembly distinguished itself by the re-founding of the MNRA around a new mode of governance. Members adopted a new Charter.

Two members of the Authority attended this meeting in which a range of topics were discussed with the question of the regulatory independence in a Euro-Mediterranean scene upset by geopolitical changes and changes due to digital technologies was at the heart of the debates.

The Mediterranean regulators that form part of this network encourage audiovisual media to respect the fundamental principles of dignity, privacy, individual or collective identity, accuracy, honesty and quality of information, and to ensure social cohesion by combating discrimination and racism.

Work continued over the two day conference, touching base on the general regulation of content, the representation of people with mental illness (or other disabilities) as well as the protection of minors and media literacy. The Gender and Media Working Group presented its work on gender representation and gender stereotypes in commercial communications and a study on the place of women in sports programmes.



The MNRA plenary was a well-attended event with a total of 49 participants representing 16 member authorities from the Mediterranean Basin.

vi. European Audiovisual Observatory workshop, 12th December 2016, Strasbourg, France

This is the second time the Authority has been invited to contribute to an international workshop hosted by the European Audiovisual Observatory and EPRA. The main aim of this workshop was to discuss the existing and upcoming regulatory asymmetries resulting from the EU legal framework and the proposal to amend the AVMSD. The following 3 areas were specifically targeted:

- 1) The material scope of the AVMSD and video-sharing platforms. Audiovisual media services are regulated in a different way depending on their linear or non-linear nature, while services such as video-sharing platforms remain outside of the full scope of the AVMSD.
- 2) The principle of country of origin and targeting on-demand services. Services provided in a given Member state may be regulated in a different way depending on the country of origin of the programme, and additional rules may be adopted.
- 3) Internal Market and services outside the EU. Service providers established in non-EU countries

remain outside the regulatory reach of the AVMSD, and fall under different regulatory frameworks such as the European Convention on Transfrontier Television (ECTT) or bilateral agreements with the European Union.

This last topic of discussion was of specific importance to both the UK and Gibraltar. Although no substantial changes are expected after the United Kingdom withdraws from the European Union, it was important to discuss possible repercussions.

The workshop provided a closed forum where EU experts, regulators, service providers and user groups could discuss their main concerns and identify limitations and improvements.



Regulatory Matters

The following is an outline of the regulatory matters which the Division has been involved in for the period 2016/17.

i. Measured Activity

Throughout the year, the Division has paid particular attention to the frequency of inbound enquiries submitted by broadcasters and/or the general public and laid emphasis on the ongoing monitoring work of local broadcasting standards.

a) Inbound Enquiries

Part of the workload for the Division is to provide guidance and advice to the public and broadcasters alike. Throughout the year, the Division has received numerous enquiries which have ranged from licence applications to concerns regarding the various Codes of Practice.

The Division aims to provide concise yet valuable information and will arrange meetings with broadcasters to explain any changes to the Codes of Practice. The Division believes that having these meetings provides valuable feedback and ensures that the appropriate advice is given.

b) Monitoring

The Division continues with the quarterly reviews of locally produced broadcasts as part of the on-going monitoring exercise to determine whether the rules contained in the Programme Standards Code, as well as the Audiovisual Commercial Communications Code ("ACCC"), are being applied correctly.

It is important that the Division maintains a good working relationship with local broadcasters and by carrying out these ad hoc monitoring exercises, the Division is able to provide guidance and make recommendations.

As part of this monitoring project, the Division organised a workshop session with GBC to explain and evaluate the ACCC. Amongst the topics discussed were the rules pertaining to sponsorship, product placement, and clarification of the general rules and definitions found within the Code. The workshop proved to be very successful and has led to further requests for advice.

c) Codes of Practice

In accordance with section 22(1) of the Act, the Authority has a duty to publish and review, Codes of Practice on any issues in respect of broadcasting standards, taste and decency, accessibility to the disabled, the advertising of products to children and other such issues deemed of significant importance to the users.

ii. EU Referendum

The "Code of Standards for TV and Radio Programmes in Relation to the EU Referendum" was published on the 18th March 2016 as per the requirements of section 7(1) of the European Parliamentary Elections Act 2004. The set standards contained in this code were intended to secure programmes included in television and radio services, in relation to the EU Referendum, were presented with accuracy and due impartiality on matters of political controversy or relating to public policy. It also set standards in order to ensure that programmes were not given undue

prominence, to the views and opinions of particular persons and bodies in relation to matters of political controversy and public policy.

The Authority also published at the same time the “Guidelines for the Handling of Complaints about the Observance of the Code of Standard in Relation to the EU Referendum 2016”, which established procedures for the handling and resolution of complaints.

The Division is pleased to report that in the run-up to the EU Referendum, which took place on 23rd June 2016, there were no regulatory issues relating to any television or radio programmes being broadcast throughout that period. The Division provided general guidance and advice to the public service broadcaster and designated organisations.

iii. Provision of Access Services Code

In this first quarter of 2017, the Division reviewed and updated the Code on the Provision of Access Services and the accompanying guidelines which were originally published on the 30th August 2013.

The revised Code, published on the 17th March 2017, sets out the requirements on subtitling, sign language and audio description as cited in section 28A of the Act. The guidelines, which were formerly a supplementary document, have now been annexed to the Code.

This Code is aimed at encouraging broadcasters to promote the understanding and enjoyment of programmes for persons who are deaf or are hearing impaired, persons who are blind or partially sighted and persons who are both hearing and visually impaired.

iv. Frequently Asked Questions

In order to raise awareness and promote the importance of the broadcasting standards, the Authority published on their website a “Frequently Asked Questions” (FAQ) section which will be updated on a regular basis. This on-line FAQ section provides answers to common questions, background information, and quick links to other documents and reports which may be useful.

v. Complaints Procedures

The Authority published new “Procedures for the

Handling of Complaints” on the 4th November 2016. These procedures were aimed at facilitating and streamlining the whole process. Complainants are no longer required to contact the broadcaster directly, but can now contact the Authority or complete the on-line form and the Division will promptly provide guidance or will investigate the complaint. If the complaint refers to a breach of a Code, the Division will forward a summary of the complaint to the broadcaster without divulging the complainant’s name, if so requested, and start the investigation process.

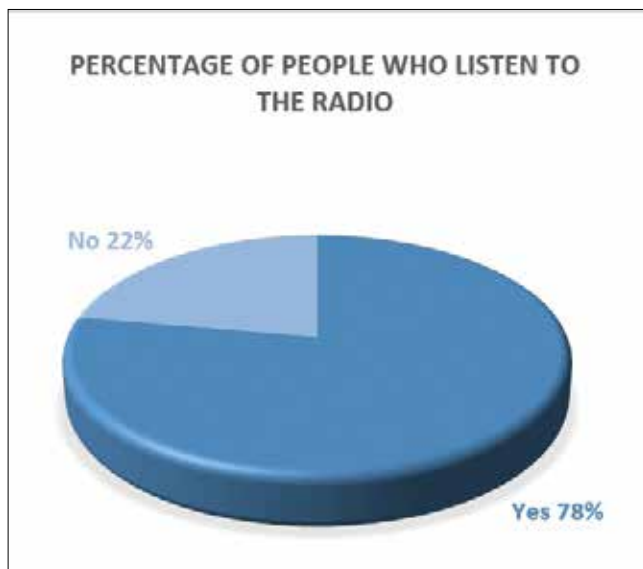
Prior to submitting a complaint, all complainants, regardless of the method used to submit their complaint, are encouraged to read the guidance notes. The inclusion of certain information by the complainant is crucial to the process and failure to provide sufficient information may hinder the investigation and prevent the Division from effectively concluding the complaints procedure. The Authority aims to complete all investigations within 30 working days.

As part of the groundwork to establish a good working relationship with local broadcasters, the Division met with both GBC and BFBS to gain a better understanding on how they operate and to explain the changes to the complaints procedures.

vi. Radio Audience Survey

The trend throughout Europe is that Radio listening is on the decline, especially amongst teenagers. The Division decided to conduct a survey to establish whether Gibraltar was following the same trend. The local radio broadcasters regularly conduct their own surveys to gauge listener satisfaction and to adjust their programming accordingly, but limited results are ever published. The Division has received numerous enquiries regarding setting up new radio stations in Gibraltar and this interest has also prompted the need for an independent unbiased survey.

This exercise was aimed at providing a true reflection of the listening habits of the general public. The survey was conducted on a random basis, primarily via face-to-face interviews where a good representative sample of the adult population participated. In order to include the habits of teenagers, the Division sought the assistance of both comprehensive schools and survey forms were completed by random classes. At the final count 723 survey forms were collected with the age demographic, ranging from 13 to 60+ years.



The Division is currently collating the results but the preliminary indications are that 78% of the population listen to the radio on a regular basis. A full report will be published during the second quarter of 2017, showing the amount of time spent listening, the reasons why, alternatives used by teenagers and more detailed information on the radio listening habits in Gibraltar.

vii. General Awareness Campaign

The Division is always willing to engage with people and organisations to enhance the local broadcasters' ability to deliver local content of a good standard which meets the needs of viewers and listeners. The Division is proactive in its approach to informing the public about the work undertaken by the team and encourages the local community to use the complaints procedure scheme in the event that a viewer or listener deems something which has been seen or heard on local TV or Radio to be inappropriate or detrimental to minors. By way of informing and raising awareness about the guidance published by the Division, it is possible to educate the general public about what should be expected from local broadcasting services.

In keeping with the current times and the extensive target audience reached on social media platforms, the Division has provided regular updates and general information on the Authority's Facebook, Twitter and LinkedIn accounts. Accompanied by an eye-catching illustration, the topics covered in these social media posts include from short news bulletins about the Division's activities, information gathered from international events attended by the Division,

historical accounts regarding broadcasting services in Gibraltar, and facts extracted from our Codes of Practice. The Division encourages the public to share these social media posts to further extend this information to a wider audience and also, will welcome all genuine enquiries and requests for further information that are yielded as a result.

viii. Awareness Day

On Monday 19th December 2016, the Division held its first awareness day at The Piazza. This was a great opportunity to provide information about the work undertaken in general, and to promote and continue conducting the Radio Audience Survey which examined the radio listening habits in Gibraltar.



Additionally, the Division used this event as a platform to remind the public about the revised Complaints Procedures and explain the programme standards that local broadcasters must comply with.

ix. Media Literacy Awareness Campaign

The Division commenced a Media Literacy Awareness Campaign which will be delivered to local comprehensive schools and the Gibraltar College of Further Education as from the next academic year. Music, TV, magazines and other forms of media have a strong influence on how the world is seen, and are a powerful influence on the youth.

The Division is seeking an educational response that expands the notion of media literacy to include different forms of mass communication and popular culture with the intent to equip students with the applicable tools and resources to critically analyse the relationship between media and themselves in today's world.

x. Revenue Collected

During the period 2016/17, and in accordance with the provisions of the Broadcasting (Licensing) Regulations 2012, the Authority collected a total of £10,500 in respect of the following FM radio Licences:

£10,000 Licence Fee (FM Radio Licence)

£500 Application Fee (Restricted FM Radio Licence)

Postal Services



Introduction

The Postal Services Division (the “Division”) of the Authority has the responsibility of regulating the Postal Sector in Gibraltar 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. This is done by facilitating market entry through authorisations and licences, 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”), issuing guidance and directions, 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.

the state owned postal incumbent. However, as a direct result of liberalisation, the topics covered have grown considerably in scope and now revolve around strategy, competition, innovation, marketing, universal service, cost analysis, and new hybrid postal services. These issues are not only discussed in relation to the universal service providers, but also to leading couriers and parcel companies.

On this occasion, representatives from international regulatory authorities, postal operators, as well as consultants and economists gave presentations on the following topics:

- EU Postal Legislation & Universal Service Obligations
- Mandatory access to the postal network
- Increasing competition between universal and non-universal services in E-commerce
- Efficiency of Postal Operators
- Future & Postal Reform
- Competitive Issues
- Economies of scope in delivering parcels and letters together
- Volume Stimulation
- Advertising Mail
- Postal Networks & Network Density

Further to the main topics discussed above, a specific presentation was given by representatives of Ofcom in the UK. This focused on changes to the universal service across Europe including the influencing factors and resulting regulatory implications, the main trend of which was reducing the number of days of delivery in low population density areas as means of ensuring that universal service providers remain competitive in the face of declining volumes of letter mail.

The Division also met with various operators, regulators and professionals who work in the postal industry and was able to establish further working contacts which already have and will continue to prove beneficial in the future.

Furthermore, as a result of attending the conference, the Authority has an up to date appreciation and understanding of the current challenges faced by the postal industry.

International Participation

This section is an outline of the conferences and meetings attended by the Division during the 2016/17 period.

i. 24th Conference on Postal and Delivery Economics, Florence Italy, May 2016

Two members of the Division attended the 24th Conference on Postal and Delivery Economics, held at the European University Institute in Florence, Italy on the 18th-21st May 2016. This conference was organised by the Centre for Research in Regulated Industries, Rutgers Business School.

Prior to the transposition of the EU Postal Services Directive 97/67/EC across Europe, this conference was focused primarily on monopoly issues regarding

ii. European Post & Parcel Services, Amsterdam, Netherlands, March 2017

Two members of the Division also attended Marketforce's European Postal Services Conference which was held in Amsterdam, Netherlands on the 21st - 23rd March 2017.

The conference adopted a future-focused look at delivery services across Europe, one constant theme throughout was the fact that delivery logistics are rapidly evolving and the continued decline in letter volumes is the major driving force behind this. This was also coupled with the fact that new entrants are disrupting the industry with novel ideas and incumbents are having to revise their strategies in order to evolve and remain competitive in the liberalised market.

The conference's opening session saw contributions from PostNL, PostNord and DHL, which had the benefit of seeing how incumbents and couriers with differing operations approach the same challenges. Representatives from other postal operators, courier companies, regulators and consultants gave presentations which later formed the basis of larger discussions. The main topics discussed were as follows:

- Impact Brexit will have on the European e-commerce market
- Emerging threats because of new market entrants
- Impact of continuing universal service obligation on incumbents
- Adding further value to letter mail
- Reshaping the workforce/operations to match contemporary demands

Although the majority of the issues discussed in the conference were primarily operator based, there was also a significant regulatory angle centred on a panel discussion that focused on developing a fit-for-purpose regulation in post and parcels across Europe that would also evolve in conjunction with the changing market.

Regulatory Matters

The following is an outline of the regulatory matters carried out by the Division for the period 2016/17.

i. Universal Service Provider

An important element in the Act is the designation of a Universal Service Provider "USP" for Gibraltar. The Authority designated the Royal Gibraltar Post Office "RGPO" as the USP in July 2013. This designation is valid until July 2020 and sets out a number of obligations which the RGPO must comply with in order to meet a variety of consumer needs.

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. As the designated USP, the RGPO must 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 registered items;
- services for insured items;
- free services, for blind or partially sighted persons (up to 7kg);
- PO Box Rental;
- Poste-Restante;
- Certificate of Posting

ii. 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 Gibraltar (local) mail in order to ensure the provision of a good quality universal postal service.

a) Local Mail

The quality of service target for local mail is expressed according to the formula (D+N) where D represents the date of deposit (before the last collection time of the day) and N is the number of days which elapse between that date and the delivery to the addressee.

Taking into consideration the RGPO’s performance results during the 2015 period in which it fell short of the required standard, the Authority has subsequently decided that the established target shall not be increased until such time as the RGPO is able to improve its performance in order to meet this standard.

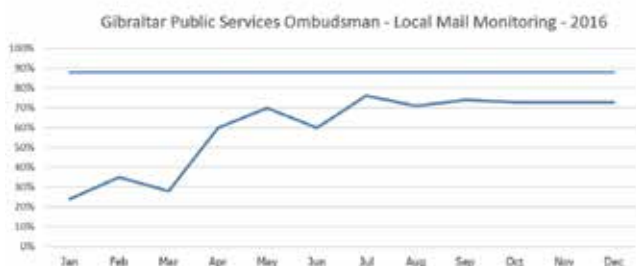
88% of items to be delivered in Gibraltar the day after posting (D+1)

b) Performance Monitoring

Section 4N (4) of the Act requires independent performance monitoring of the established quality standards to be carried out. Therefore, in accordance with the provisions on the Act, for the past two years the RGPO, with the approval of the Authority, appointed the Gibraltar Public Services Ombudsman (the “GPSO”) as the independent body, tasked with monitoring mail deposited at access points throughout Gibraltar and delivered locally.

The GPSO are currently monitoring the full local end-to-end network, which involves the collection of mail from various access points and subsequent processing and delivery within Gibraltar.

The chart below illustrates the RGPO’s performance results in respect of next day delivery of local mail:



The GPSO’s statistical results clearly reflect the fact that the RGPO is struggling to meet the current established performance target of 88%, however the Authority will continue to assist the RGPO in making informed decisions that will address any issues that may be adversely affecting their performance with the ultimate goal of improving Quality of Service.

c) International Inbound delivery within Gibraltar

The RGPO as the USP for Gibraltar has a duty to monitor its Quality of Service for both EU and international mail.

The Global Monitoring System “GMS” is a state-of-the-art independent performance measurement system managed by the Universal Postal Union. Its primary objective is to provide participating countries with accurate, high-quality operational results regarding performance.

The GMS consists of external, independent, panellists who exchange test items between the participating countries. The test items contain a radio frequency identification “RFID” tag, which is read by an antenna installed at the RGPO sorting office where the international mail is received and processed. The test items are identified and logged automatically and this information is immediately sent to the UPU in order to determine the quality of service being provided.

The GMS results are used by the UPU to set the payment rates for weight imbalances in mail exchanges between countries. It is vital however, not to confuse this system which only monitors the delivery times of inbound international mail once it arrives in the sorting office, with the system adopted by the GPSO which monitors the full local end-to-end network in Gibraltar.

The chart below illustrates the RGPO’s performance results in respect of next day delivery of international inbound mail within Gibraltar for the 2016 period:



The year-to-date figures received from the UPU show the RGPO’s performance for next day delivery within Gibraltar as follows:

Year	2011	2012	2013	2014	2015	2016
UPU Target	65%	75%	78%	88%	88%	88%
Performance Result	85%	91%	85%	87%	80%	75.20%

Together with the GPSO’s results, these figures show that the RGPO has again fallen short of meeting the required target of 88%. Therefore, the Authority will continue to work closely with the RGPO in order to make the necessary operational improvements with a view of satisfying the required performance targets.

d) EU Intra-Community cross-border mail

The quality of service standard for the delivery of EU intra-Community cross-border mail is EU driven and is established in law under Section 4N (2) of the Act as follows:

- 85% of items to be delivered in D+3
- 97% of items to be delivered in D+5

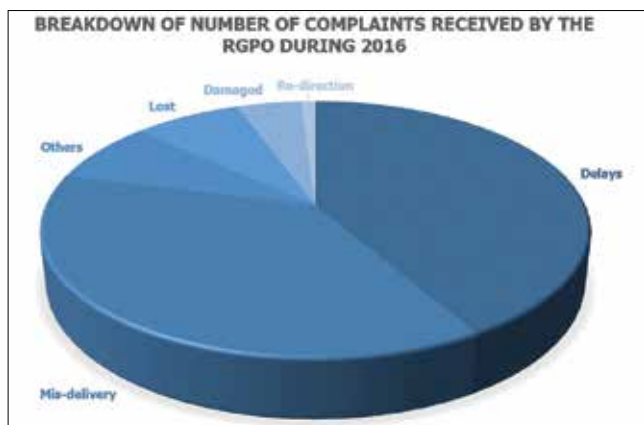
Due to Gibraltar’s unique geographical circumstances, the above targets are not feasible due to the fact that all mail (with the exception of Spain) takes a transit route via London, whereas the above targets are for direct mail exchange between European neighbours. Therefore additional days may be required.

iii. 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 2016 period:

Complaint Type	Number
Lost	30
Mis-delivery	148
Delays	165
Re-direction	4
Damaged	18
Others	31



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

iv. 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 our website at the following address:

<http://www.gra.gi/postal-services/the-register>

v. Revenue Collected

During the 2016/17 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 £1500.00.

The total amount collected by the Authority in respect of the Individual Licence issue to the RGPO was £5000.00.

This has brought the total revenue for Individual Licences & General Authorisations for 2016/17 period to £6500.00.



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