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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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**COMMISSION STAFF WORKING DOCUMENT**

**Europe's Digital Progress Report 2017**

# Europe's Digital Progress Report - 2017

## Telecoms chapter

### MALTA

#### 1. Competitive environment

| Coverage                           | MT-2015 | MT-2016 | EU-2016 |
|------------------------------------|---------|---------|---------|
| Fixed broadband coverage (total)   | 100%    | 100%    | 98%     |
| Fixed broadband coverage (rural)   | 100%    | 100%    | 93%     |
| Fixed NGA coverage (total)         | 100%    | 100%    | 76%     |
| Fixed NGA coverage (rural)         | 100%    | 100%    | 40%     |
| 4G coverage (average of operators) | 80%     | 99.5%   | 84%     |

Source: Broadband Coverage Study (IHS and Point Topic). Data as of October 2015 and October 2016.

#### Fixed broadband market

Currently, all Maltese households can get access to fixed broadband services at speeds of over 30 Mbps. The take up of fixed broadband is well above the EU average.

The fixed telephony market is dominated by GO plc (65% share of connections) and Melita (34% share of connections). Together, they accounted for 99.14% of the market in the third quarter of 2016. There are four other very small players<sup>1</sup> using their own wireless networks which together account for less than 1% of the market. One operator is using the wholesale line rental (WLR) and the carrier selection/carrier preselection (CS/CPS) solution offered by GO plc. However the number of lines based on this solution is negligible. There are also five overseas companies registered in Malta which are authorised with the Malta Communications Authority (hereinafter MCA)<sup>2</sup>.

There is evidence in Malta of fixed-to-mobile (FTM) substitution. End-users are increasingly using mobile voice calling rather than fixed calling, with the number of mobile-originated voice call minutes exceeding the number of fixed-originated voice call minutes since 2013. In the first half of 2016 the gap between the two types of traffic widened further. The fall in mobile call rates has contributed to this trend.

| New entrants' DSL subscriptions by type of access (VDSL excluded) | MT-2015 | MT-2016 | EU-2016 |
|---|---------|---------|---------|
| Own network   | 100%    | 100%    | 0.7%    |
| Full LLU  | -       | -       | 75.3%   |
| Shared access   | -       | -       | 4.1%    |
| Bitstream   | -       | -       | 13.4%   |
| Resale  | -       | -       | 6.6%    |

Source: Communications Committee. Data as of July 2015 and July 2016.

<sup>1</sup> Vodafone Malta Ltd, Vanilla Telecoms, SIS and Ozone.

<sup>2</sup> Namely: (i) EGN B.V., (ii) Iridium Italia S.R.L, (iii) Telefonica International Wholesale Services II SL, (iv) Viasat Malta and (v) Voxbone.

| <b>Fixed broadband market shares</b>      | MT-2015 | MT-2016 | EU-2016 |
|---|---------|---------|---------|
| Incumbent market share in fixed broadband | 47.7%   | 49.6%   | 40.7%   |
| <b>Technology market shares</b>           |         |         |         |
| DSL                                       | 47.8%   | 45.2%   | 66.8%   |
| Cable                                     | 51.2%   | 48.0%   | 19.1%   |
| FTTH/B                                    | -       | 4.4%    | 10.7%   |
| Other                                     | 1.0%    | 2.3%    | 3.4%    |

Source: Communications Committee. Data as of July 2015 and July 2016.

| <b>Charges of Local Loop Unbundling (monthly average total cost in €)</b> | MT-2015 | MT-2016 | EU-2016 |
|---|---------|---------|---------|
| Full LLU  | 12.0    | 12.0    | 9.2     |
| Shared access   | 3.8     | 3.8     | 2.4     |

Source: Communications Committee. Data as of July 2015 and July 2016.

There were no new entrants in the market during 2016, with no consolidation and no technical or commercial agreements registered. Consequently, the market share remains unchanged.

To date there has been no co-investment roll-out and there are no wholesale-only broadband network operators on the local scene. No utility has entered the wholesale market for active services. However, the electrical company provides electronic communication networks with access to its passive infrastructure on a commercial basis.

In recent years, there has been an increase in take-up of bundled packages in Malta. For example, the number of subscriptions to quad-play packages, including fixed and mobile telephony, fixed broadband and pay TV at the end of September 2016 stood at 48 699. In principle, the services offered differ depending on the operator. Pay TV in bundled packages is quickly being taken up. At the end of September 2016, almost 59% of all pay TV subscriptions were purchased in a bundle. There are various instances where service providers promote offers to entice more people to opt for a bundle. From January 2016 Netflix also started offering TV streaming services.

The lowest fixed broadband price (12-30 Mbps or above) is €1.18, compared to €1.33 at EU level<sup>3</sup>.

Local Loop Unbundling (LLU) charges are slightly higher in Malta in comparison with the EU average: €12 versus €9.2 for full LLU and €3.8 in comparison with €2.4.

## Mobile market

| <b>Mobile market</b>                    | MT-2015 | MT-2016 | EU-2016 |
|---|---------|---------|---------|
| Market share of market leader           | 45%     | 43%     | 34%     |
| Market share of second largest operator | 38%     | 39%     | 28%     |
| Number of MNOs                          | 3       | 3       | -       |
| Number of MVNOs                         | 2       | 2       | -       |
| Market share of MVNO (SIM cards)        | 2%      | 2%      | -       |

Source: Communications Committee. Data as of October 2015 and October 2016.

<sup>3</sup> Source: Fixed broadband prices in Europe in 2016 (Empirica). Prices expressed in EUR/PPP, VAT included. Data as of autumn 2016.

The MCA carries out measurements on spectrum coverage to ensure that holders of the rights to use radio spectrum and provide electronic communications services meet their obligations concerning roll-out and coverage. The results of these measurements are not publicly available. The service providers carry out their own measurements for technical and commercial purposes. The results are published on their websites.

GO has its backhaul network on fibre, whilst Vodafone utilises fibre backhaul in selected areas only and relies on microwave links for the other areas. Melita plc uses hybrid fibre-coax infrastructure.

Currently, the MCA has no plans to carry out spectrum refarming in any of the bands used for 2G/3G services. Regarding 2G and 3G networks phase-out, the rights of use are reported to be technology neutral. Any decision on this matter is expected to be taken directly by the mobile operators, on a purely commercial basis.

| <b>Mobile broadband prices</b>                              | MT-2015 | MT-2016 | EU-2016 |
|---|---------|---------|---------|
| Least expensive offer for handset (1 GB + 300 calls basket) | 68      | 65      | 30      |
| Least expensive offer for tablet and laptop (5 GB basket)   | 13      | 12      | 18      |

*Source: Mobile Broadband Price Study (Van Dijk). Prices expressed in EUR/PPP, VAT included. Data as of February 2015 and February 2016.*

In Malta prices for handsets are more than double in comparison with EU level (€65 versus €30), whereas laptops and tables for 5 GB basket are cheaper (€12 in comparison with EU average of €18).

## 2. Supporting deployment and investment in high speed networks

### a. Spectrum

| Harmonised band | MHz spectrum assigned <sup>4</sup> | % of the harmonised band assigned |
|-----------------|------------------------------------|-----------------------------------|
| 700 MHz         | -                                  | 0%                                |
| 800 MHz         | 0                                  | 0%                                |
| 900 MHz         | 70                                 | 100%                              |
| 1500 MHz        | -                                  | 0%                                |
| 1800 MHz        | 90                                 | 60%                               |
| 2000 MHz paired | 120                                | 100%                              |
| 2600 MHz        | 0                                  | 0%                                |
| 3400-3600 MHz   | 128.5                              | 64.25%                            |
| 3600-3800 MHz   | 0                                  | 0%                                |

In Malta only 37%<sup>5</sup> of harmonised spectrum has been assigned. Only two bands (900 MHz,

<sup>4</sup> Including guard bands.

2000 MHz) have been fully assigned, whereas the 800 MHz, 2600 MHz bands have not been assigned at all (0% or no auction yet).

No new spectrum for wireless mobile broadband was assigned in 2016. In this respect, the existing rights of use for wireless broadband spectrum require licence holders to provide services throughout Malta's territory. In addition, there were no renewals to the rights of use of spectrum in 2016. However, the MCA amended the rights of use of radio frequencies for digital terrestrial television transmissions (DTTV). This was done to formally trigger the migration process of DTTV from the 800 MHz band after completing the successful coordination of an alternative channel for the DTTV broadcasts earlier in 2016. It was also done to resolve issues of cross-border interference (with Italy), in line with the derogation granted to Malta<sup>5</sup>. Free Wi-Fi can be offered without any requirement for authorisation or notification.

It is the Maltese Government that sets spectrum usage fees. In setting the usage fee for the 1.5 GHz band, the Government, based on MCA's recommendations, took into consideration a number of this band's characteristics to ensure that the price established reflects the potential market value. The National Frequency Plan clearly indicates which spectrum bands can be traded or leased in Malta. The list of bands is based on the radio spectrum policy programme (RSPP) and also includes the 1.5 GHz band. There were no cases concerning the trading or leasing of spectrum in Malta in 2016. When assigning spectrum, the MCA follows the concepts of technology and service neutrality, given the geographical characteristics of Malta (three islands).

No licences were renewed or extended beyond the original terms in 2016. The MCA did not receive any application relating to Article 5(2) of the Authorisation Directive either.

The MCA is not aware of any current market interest in using licensed shared access agreements in the 2.3-2.4 GHz. In this context, a considerable amount of EU harmonised spectrum is available for assignment in other frequency bands. According to the MCA this makes the assigning of spectrum under a sharing arrangement unattractive,

Regarding early 5G trials/deployments, the MCA has put in place a test and trial licensing system to enable such trials. It is not currently aware of any plans by the sector to carry out 5G trials in Malta.

## **b. EU and national investments in broadband**

The Digital Malta Strategy, devised in collaboration between the Malta Information Technology Agency (MITA) and the MCA, was launched in 2014. The strategy is a policy document guiding the country towards the 2020 Vision that 'Malta will prosper as a digitally-enabled nation in all sectors of society'. The strategy puts forward 71 projects under three strategic themes, namely digital business, digital government and digital citizen. These vertical strategic pillars need to be supported by regulation and legislation, infrastructure and human capital.

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<sup>5</sup> This percentage slightly differs from the one used in the EDPR country profile following feedback from the authorities concerned and reflected in the above table.

<sup>6</sup> Commission Decision No. C(2016)4973/F1.

The National Broadband Plan (NBP) emphasises that Next Generation Access (NGA) need to be deployed to ensure specific targets regarding availability and adoption of fast and high-quality internet connections are in line with the targets set out in the Digital Agenda for Europe (DAE) 2020.

In terms of the new connectivity goals set out in the Communication on the Gigabit Society, Malta will be taking a number of demand driven initiatives, such as: the MCA Free Wi-Fi project, which aims to make Malta one of the most connected jurisdictions countries in Europe, and the SmartPhone initiative, aimed at promoting smartphone use as a productivity tool.

These, along with other training initiatives (for instance initiatives targeted towards the elderly or people with special needs or those encouraging up-skilling and re-skilling), form part of a wider strategy addressing the digital divide that the MCA is currently coordinating.

Moreover, the MCA is implementing a number of demand stimulation measures designed to increase the take-up of superfast broadband services. This includes helping people to acquire internet skills and heightening awareness of how it can be used.

In addition, the MCA has a number of initiatives with a particular focus on small and medium-sized enterprises (SMEs), to support economic growth. This includes: promoting cloud computing as a business enabler and facilitator; mentoring; training and targeted advice on using digitally-enabled technologies, and other focused activities to support business growth, especially amongst SMEs.

The recent surveys published by the National Statistics Office (NSO) and MCA claim there has been an increase in awareness and take-up.

Malta is currently working on the international connectivity project. Regarding this, in the absence of private investment, it is likely that the Government will need to intervene to bring this project to reality. An MCA-commissioned study found that a new connection with mainland Europe via a locally-owned, government-subsidised link to a trans-Mediterranean submarine cable (with France, apart from the existing connection with Italy) would improve Malta's credibility as a place for international business investment. It would ensure that the country's requirements for future international telecoms connectivity and competitiveness could be met. The MCA has begun discussions with the European Investment Advisory Hub (EIAH) on this international connectivity project. The objective is to conclude the discussions by 2017.

### **c. State of transposition of the Broadband Cost Reduction Directive**

The deadline for transposing the Broadband Cost Reduction Directive (BB CRD)<sup>7</sup> expired on 1 January 2016. As Malta had not transposed it by this date, the European Commission launched infringement proceedings in March 2016. A full transposition into national law was concluded later in 2016<sup>8</sup>. The Commission closed the infringement proceedings, and, as a next step, it will analyse whether the measures notified are in line with the BB CRD.

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<sup>7</sup> Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks.

<sup>8</sup> The Directive was then transposed into Maltese law in 2016 by the Utilities and Services (Regulation of Certain Works) (Amendment) Act 2016, which had entered into force in April 2016 and was followed by the In-

### 3. Regulatory function

In 2016 the MCA issued 13 regulatory decisions and it plans to continue reviewing the markets every three years. There were two reviews in 2016 (concerning ex-Market 2 and Market 4), and two other reviews are coming in 2017 (concerning Markets 2 and 3a/3b).

The market review on ex-Market 2 (2007 Recommendation) on wholesale call origination on public fixed telephony networks was notified to the Commission in January 2016. The MCA decision, published in March 2016, is currently under appeal. The final decision is expected in 2017. The review on Market 4 (new Recommendation on wholesale high-quality access provided at a fixed location) was submitted in November 2016, and the decision is expected in the first quarter of 2017. Markets 2 and 3a/3b are to be regulated in 2017.

To date, there are no markets outside the Recommendation on relevant markets that are subject to review. There are currently no delays in market reviews.

Both fixed and mobile termination rates are fully in line with the 2009 Termination Rates Recommendation. The fixed termination rate (FTR) of €0.0443 was established following a decision published in December 2012 and was based on the Commission Recommendation's Pure-LRIC ('long-run incremental cost') approach. In April 2014, the MCA issued a decision to set a mobile termination rate (MTR) calculated on a bottom-up model based on the Pure-LRIC approach as laid down in the Commission Recommendation of May 2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates. The MTR is €0.4045 per minute.

One operator filed an appeal before the Administrative Review Tribunal (ART) for the withdrawal of this decision, and for its temporary suspension until the appeal proceedings are concluded. The ART did not accept the request for a temporary suspension and is currently hearing evidence being brought forward by the operator and the MCA.

In February 2016, the MCA issued its VULA (virtual unbundled local access) decision, whereby it imposed non-discrimination obligations on one operator through an Economic Replicability Test Framework. The MCA considered the equivalence of outputs sufficient and efficient in maintaining technical replicability. It also published a decision on the (VULA) remedy, providing a virtual access solution on the incumbent's (GO plc) FTTH ('fiber to the house') network. Such a remedy is currently being appealed against by one of the potential alternative network operators that may use such a service in the near future.

### 4. Consumer issues

#### *Number portability*

| Number portability |                            | 2015  | 2016  |
|--------------------|----------------------------|-------|-------|
| Fixed              | Number of transactions[1]  | 1,288 | 1,138 |
|                    | % of total numbers[1]      | 0.6%  | 0.5%  |
|                    | Maximum wholesale price[2] | 3     | 3     |

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Building Physical Infrastructure in June 2016 (Access to Electronic Communications Services) Regulations, 2016 Building Regulation Act (Cap. 513).



|        |  |        |        |
|--------|--|--------|--------|
|        | Maximum porting time (no. of working days) [2] | 1      | 1      |
| Mobile | Number of transactions[1]                      | 24,110 | 21,322 |
|        | % of total numbers[1]                          | 4.3%   | 3.7%   |
|        | Maximum wholesale price[2]                     | 2      | 2      |
|        | Maximum porting time (no. of working days) [2] | 1      | 1      |

[1]Source: Communications Committee. Data as of January to September 2015 and January to September 2016.

[2]Source: Communications Committee. Data as of October 2015 and October 2016

The number portability (NP) process provides the subscriber with a transparent, one-stop shop procedure. The process, which is recipient-driven, ensures that the porting process takes place in one day (excluding the physical fixed-line installation), with no loss of service at any point during the switching process. A number of provisions are incorporated within the NP process which safeguards the donor and recipient operators as well as the subscriber. Within the process, a porting request is rejected if the subscriber making the request has not settled all his bills with the donor operator. In 2016 there were no issues with regard to the implementation of Article 30 of the Universal Service Directive.

### **Transparency**

In 2012, the MCA issued a decision designed to ensure that subscribers receive clearer information about their rights and obligations when switching. The decision stipulates that companies must ensure there are no unnecessary discrepancies between the procedures for connecting and disconnecting a service. It also states that the information on the contract's duration and on the cost incurred through a penalty, should the contract be terminated early, must be clearly visible and printed in bold. Contracts must include information on the minimum notice period to terminate the contract. The decision also regulates the steps that subscribers are required to take when terminating a contract and disconnecting a service. No developments in this area were reported in 2016.

### **Roaming**

In Malta in the first quarter of 2016, the average retail Eurotariff price for roaming was €0.131 per minute for outgoing calls (more expensive than the EEA average of €0.112 per minute) and €0.044 per minute for incoming calls (also more expensive than the EEA average of 0.026 per minute). Alternative tariffs of €0.065 per minute for outgoing calls were less than half the EEA price of €0.138 per minute, but more than double the tariff for incoming calls (€0.103 per minute, as opposed to €0.046 per minute in the EEA). The average retail Eurotariff for text messages was €0.051 per text (a little above than EEA average of €0.047 per text). As regards data, the price was €0.109per Mb (more than twice the EEA average of €0.047 per Mb)<sup>9</sup>.

### **Net neutrality**

There is no specific national legislation on net neutrality over and above EU Regulation 2015/2120. The relevant amendments to national legislation were made in 2016. The MCA has not been informed of any self-regulatory initiatives. The MCA closely follows the

<sup>9</sup> International Roaming BEREC Benchmark Data Report October 2015 - March 2016, BoR (16) 160.

BEREC guidelines published in August 2016. To date additional guidelines tailored to the local market and conditions have not yet been published. However, this option is not excluded should the need for such guidelines arise in the future.

Penalties and sanctions are regulated in the Malta Communications Authority Act (MCAA)<sup>10</sup>. In case of a breach of EU relevant legislation (for instance norms under Regulation 2015/2120/EU), administrative fines not exceeding €350,000 for each infringement and/or €12,000 for each day of non-compliance may be imposed. If the infringement in the opinion of the MCAA has '*especially significant effects on the market to the detriment of competitors and/or consumers*' the amount of the fine may be increased up to 5% of the turnover of the undertaking concerned for the year immediately preceding when the infringement was committed. This provision<sup>11</sup> came into force on 30 April 2016.

### ***Universal service***

In 2016 there were no significant developments. The MCA's decision '*Universal Service Obligations on Electronic Communications Services*' provides vulnerable end-users with some additional rights (e.g. measures which entitle visually impaired people to one free call per week to a directory enquiry service number and entitle elderly people to subscribe to a 'Telecare' service and have easy access to emergency services). In addition, eligible consumers, especially vulnerable low-income users or those with special social needs, may benefit from reduced tariff options, which would help make the universal service affordable. Moreover, some companies give end-users the option of testing out the latest communication devices at any of their outlets, thus enabling them to identify the most suitable device to meet their needs. In the past, a number of service providers, in collaboration with the Foundation for Information Technology Accessibility (FITA), also provided subsidies to benefit disabled end-users.

### ***112 and access for disabled end-users to emergency services***

In April 2016 an infringement proceeding was launched against Malta on the basis of complaints over an alleged breach of EU law in implementing the European Emergency Number 112, in particular as regards the excessive time needed to identify the caller's location. Despite Article 26(5) of the USD being completely transposed, it seems that not all operators have yet successfully implemented the caller information provisions and therefore are not fully in line with EU and national law. There has been visible progress, i.e. the ongoing dialogue between the government, the police (in charge of 112) and operators. However, further efforts to ensure full compliance with the relevant EU rules are encouraged. The most recent implementation plan, presented in January 2017, includes, for instance, the creation of the 112 Control Centre Solution. It consists of three phases: (1) replacing and upgrading the current system, (2) installing hardware and infrastructure and (3) testing and training. According to the Maltese authorities, the plan should be in operation by the end of October 2017.

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<sup>10</sup> More precisely, this is regulated under Part VI of the Malta Communications Authority Act (MCAA), Cap. 418 of the Laws of Malta, introduced following the enactment of Act XVIII of 2016, in particular Article 33 of the MCAA.

<sup>11</sup> Paragraph 7 of Article 20 of Act XVIII of 2016, which effectively provided for the application of Part VI of Cap. 418, came into force on 30 April 2016, as per Legal Notice 172 of 2016.

## **5. Conclusions**

Malta has 100% total NGA coverage in both rural and non-rural areas. Similarly the 4G coverage is well-above the EU average, where Malta has improved significantly in comparison with a previous year. Despite some progress being made, Malta needs to fully implement EU obligations on 112 as soon as possible, as the current caller location time is too long.