



MALTA COMMUNICATIONS AUTHORITY

Source of Funding for the net cost incurred in providing universal service obligations during 2017

Decision

MCA/D/21-4451

22nd November 2021

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1. Background

In accordance with the provisions established in the *Electronic Communications Networks and Services (General) Regulations*¹ (hereafter the “Regulations”), in 2018 the Malta Communications Authority (hereafter the “MCA” or the “Authority”) received from GO plc (hereafter referred to as “GO”) a detailed application for funding in relation to the net costs it claimed to have incurred in providing universal service obligations (hereafter referred to as “USO”) in the electronic communications sector during 2017.

The MCA commissioned Ernst & Young Limited (hereafter referred to as “EY”) as an expert independent consultant to evaluate the reasoning behind this claim, and to audit and verify the various calculations that were used to enable the Authority determine if the claimed net costs found in the USO funding application actually resulted in an unfair burden on GO.

Following the completion of the review and auditing exercise by EY, in September 2021 the MCA published a consultation and proposed decision on the review of GO’s funding application entitled “Review of GO plc’s application for funding of the net cost claimed to have been incurred to provide universal service obligations during 2017”. The MCA received feedback from Melita Limited during the consultation period and its views were included in the Decision Notice² which was published in October 2021. Both documents included an annex with an abridged version of the Calculation Accuracy Phase Report on the findings of this exercise which was prepared by EY.

The final assessment of the calculated cost and audited results for the provision of each element of the USO being claimed by GO, namely public payphones, social tariffs (including Telecare and free line rental) and comprehensive electronic directory, were established as depicted in Table 1 below.

¹ As a result of the transposition of the European Electronic Communications Code, Cap. 399 was amended by Act Number LII of 2021, and S.L. 399.28 was repealed by LN379 of 2021 and replaced by S.L. 399.48 with effect from 1st October 2021. **Some references to the legislation prior to the amendments to the applicable laws that came into force as on the 1st October 2021 have been retained in this Proposed Decision since the claims are related to a period (2017) which is prior to the coming into force of the amended legislation.** The provisions which were previously included in Regulation 30 of S.L. 399.28 have been substantively retained in Regulation 76 of S.L. 399.48.

²<https://www.mca.org.mt/sites/default/files/Decision%20on%20GO%27s%20USO%20Claim%20for%20Funding%20for%202017%20incl%20Annex.pdf>

GO has also included the brand enhancement element as a component of intangible benefits and its value is deducted from the costs of the other components as shown in the Table 1 below, resulting in a net cost amounting to a total of €76,659:

USO COMPONENTS	AUDITED NET COST (€)
Payphones	(50,023)
Social tariffs	(182,629)
Comprehensive electronic directory	(7,766)
Intangible benefits	163,760
Total	(76,659)

Table 1

2. Responses to Proposed Decision

In November 2021, the MCA issued a proposed decision on the Source of Funding to compensate the designated undertaking, GO, for the net cost found to have been incurred for the provision of the universal services in the electronic communications sector during 2017 as established following the analysis, audit and verification of GO's application. The Proposed Decision was entitled "Source of Funding for the net cost incurred in providing universal service obligations during 2017". The MCA invited interested parties to submit their written feedback on the proposed decision during a consultation period which ran until 17th November 2021.

Taking into consideration that no feedback was received to the aforementioned consultation, the MCA has decided to publish this decision on the same lines of its proposed decision.

3. Source of Funding

In accordance with Regulation 77(1) of S.L. 399.48 (which regulation substantively retains the provisions of the former regulation 31(1) of S.L. 399.28 that was effective until 30 September 2021 when S.L. 399.28 was repealed by LN379 of 2021 and replaced by S.L. 399.48), when the Authority establishes that a designated undertaking has suffered an unfair burden to provide a universal service, it shall:

- introduce a mechanism to compensate the universal service provider from public funds with the approval of the government; and/or
- establish a sharing mechanism between providers of electronic communications networks and services.

Following an analysis by the MCA on the final assessment of the claim for funding in relation to the USO provided by GO during 2017 and in line with a decision by the Government of Malta, the established total amount of €76,659 may be financed from public funds. Such a decision by the Government of Malta solely refers to the analysed USO claim and is without prejudice to any position that Government may take on any future financing of USO related claims.

Decision

In line with a decision by the Government of Malta the established total amount of €76,659 pertaining to the net cost incurred by GO plc to provide universal service obligations in the electronic communications sector during 2017 shall be financed from public funds.