




# MALTA COMMUNICATIONS AUTHORITY

## Strategy Update 2023 - 2025

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## 1 Purpose

This document provides a rolling update of the Malta Communications Authority's<sup>1</sup> strategic direction for the period 2023 – 2025. It contains a validation of established strategic thrusts and includes any new developments that are envisaged as having a significant impact during the plan period.

The sectors that are addressed in this document are the ones under the Authority's regulatory responsibility, and namely the Electronic Communications and Postal sectors, as well as a rapidly increasing number of activities that can be aggregated under the umbrella term of Digital Environment.

The key thrusts identified in this Strategic Update constitute the conceptual framework for the activities that are articulated in the Business Plan for the same time-period.

The contents of this Strategy Update are based on the MCA's visibility of its official mandate as at date of presentation.

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<sup>1</sup> Hereafter referred to as MCA or The Authority

## 2 Contextual Background and Sectoral Outlook

### Background

#### Introduction

The contextual background to this Strategy Update can be broadly grouped under three headers, that is, international developments, policy direction at both EU and national level and sectoral activity ‘on the ground’. The three areas are inevitably dynamic in nature. Thus, they impinge on the Authority’s strategic direction, albeit to varying degrees of influence.

International developments have maintained a tendency towards unexpected twists, experienced in the past few years. Such developments cannot be said to directly or exclusively impact the sectors that are the object of this Update. Nonetheless their influence, indirect as it may be, cannot be ignored. Across the globe, economies have been impacted in one way or another. The downward trend in the COVID-19 pandemic during the past year represents a good-news story on the aggregate, with the notable exception in the inflationary pressures that have ensued in its wake, notably as a result of supply chain issues. Meanwhile, the situation with climate change is not as optimistic and the effects are palpable.

The positive developments, to date, in relation to the COVID-19 emergency have been somewhat offset by the Russian invasion of Ukraine, which, aside from the unspeakable human suffering wrought, has brought an added level of complexity to both supply chain and climate change issues. All economic sectors, in Europe and well beyond, have been impacted in one way or another. The prospects for the global economy at this point in time remain somewhat uncertain.

In relation to the global events identified above, which inevitably impinge on the Maltese economy in its entirety, other developments that have a bearing on this strategy update, albeit rather less dramatic in nature, exert a more immediate impact on the Authority’s charted course. These developments can be broadly classified as ‘Top-Down’ and ‘Bottom-up’ developments. The former has to do with developments of a policy nature arising mainly from EU and Malta Government policy initiatives and direction.

As for ‘Bottom-up’ developments, these have essentially to do with the regulatory implications of relevant activity that occurs ‘on the ground’. At times these developments necessitate policy and regulatory review on the part of the Authority in line with its mission<sup>2</sup> and mandate.

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<sup>2</sup> See Mission Statement at Page 23

New provisions in the European Electronic Communications Code<sup>3</sup>, as well as the recently enacted Digital Services Act<sup>4</sup> comprise the main ‘top-down’ developments for the Malta Communications Authority, triggering required interpretation and implementation. Other known ‘top-down’ developments that were anticipated to commence in 2022, namely the reviews of the European Postal Services Directive and the Broadband Cost Reduction Directive, respectively, did not progress as anticipated during the current year and one expects an element of catch-up during the forthcoming plan period, particularly in the case of the latter Directive.

With regards to ‘bottom-up’ developments, it is fair to say that at the current level of visibility, new or renewed thrusts during the strategy period will be mainly forthcoming as a result of such developments. Changes in the competition dynamic in the electronic communications sector, the continued proliferation of mobile Ultra-High-Speed (UHS) data capability, an increasingly complex spectrum management environment and the sustainability of the postal universal service are the main examples the bottom-up developments that characterise the forthcoming plan period.

As an overall comment, the foreseen implications are that the emphasis of the Authority’s activity during the plan period will be on the continuation of known initiatives via the activation of new phases. This Strategy Update is therefore seen as one characterised by continuity in relation to last year’s update. Thus, the general scenario, strategically speaking, should remain rather stable over the forthcoming Plan period. Even so, the Authority’s task-sheet is no less challenging from an operational point of view.

A more focused rendering of the possible impacts of External and Policy developments, follows:

## **External & Policy Developments**

### **The Global Environment**

COVID-19 is now seen as having entered an endemic phase and most populations have now settled to living the ‘new normal’, although individual national approaches may result in a somewhat different interpretation to the term. Inevitably a good degree of uncertainty as to the future impact of COVID-19 remains, as vaccine-producers align their sights on a moving target. However, the overall picture is encouraging, as also witnessed by a revitalised travel and leisure industry. This trend has also been observed in Malta where tourism figures for 2022 have so far gone up to a level that is comparable with 2019. In relation to electronic

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<sup>3</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code

<sup>4</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)

communications, this activity has clearly resulted in a direct impact of a positive nature on both inbound and outbound mobile roaming.

Supply chain issues are showing signs of improvement, but matters are still not back to normal. It will take time for the overall picture to clear up and for the resultant inflationary pressures to ease up, given also the fresh wave of uncertainty caused by the Ukraine conflict and the resultant tensions between the USA and Europe on one side and Russia on the other. The tense political situation has also worsened already-strained relations, mainly with China but has also impacted other countries, as existing geo-political balances have been upset. Thus, the overall result has been the straining of existing relationships but at the same time this epic shift has also seen the weaving of new or long-neglected bi-lateral or multi-lateral relations. The resultant tensions have played on the communications sector as well, mainly on cyber-security and internet-governance aspects.

The resultant picture is one of fragmentation of a globalised system of trade and not necessarily for the shorter term. The immediate shocks are being felt mainly within Europe, with resultant uncertainties which are seen as likely to endure for some time to come.

The positive side of the coin is that lessons have been learnt and risk management in supply chains as well as an acceleration in digital transformation are taking place. Enhanced technology input, both at a domestic and business level, has been a constant feature throughout the pandemic. It is highly unlikely that attitudes and behaviour patterns will go back to pre-pandemic levels. Thus, the dire developments of the past two years have, at the same time, contributed to the enhanced input of technology within businesses and households, coupled with a heightened awareness of the value of resiliency and security at all levels of the value chain.

The growth in eCommerce and the public uptake of online payments during the pandemic are other enduring behaviour patterns, as users increasingly caught on to the attractiveness of such a mode of doing business in terms of its convenience, beyond addressing the necessary safety and isolation requirements at the time. Locally, however, the situation as regards incoming eCommerce took a rather peculiar twist during the corresponding period given a host of unrelated events that hit Malta in more or less the same time.

Reference to these events, namely COVID, Brexit, UPU developments and changes in EU taxation policies for third country imports, was made in last year's Update, with the proviso that it would take time before the actual impact could be assessed more accurately. As things stand, a year later, the situation remains somewhat unclear and the negative effects of these events on incoming eCommerce linger on. On the other hand, local eCommerce activity has increased significantly, and this looks to be the result of a structural shift on the part of an increasing number of businesses.

Another characteristic feature of the past couple of years has been an endemic lack of trained human resources that has worsened as economies opened up to the new normal and sectors like travel, hospitality and leisure cranked up from a dormant situation to meet a veritable onslaught of travel-hungry throngs. The problem goes beyond the hospitality sector and permeates virtually all aspects of the economy throughout the developed world.

Malta is no exception and was already experiencing shortages even before the pandemic. The post-COVID situation remains problematic due also to a significant number of expatriate workers having left the Island during the pandemic. The human resource problem is being partly offset by a fresh influx of expatriate labour, which resolves matters in part. Meanwhile, other resource bottlenecks and increasing world inflation point to rising costs and scarcities that affect a large number of economic sectors, including the communications sectors addressed in this Update.

The resultant impact is a mixed one. On the one hand the retail market, notably in electronic communications, is once again on the increase. On the other hand, inflation is bound to affect costs, although Government intervention in key areas such as energy has so far cushioned the impact somewhat.

Last but certainly not least, lies the grave risk posed by global warming with increasingly alarming manifestations, year on year. This global emergency too, has fallen victim to the vicissitudes of the two-pronged crisis referred to earlier on, as energy supply chain bottlenecks suddenly escalated, mainly in Europe, forcing several jurisdictions to take a step back, at least temporarily, from the tempo of reaching the zero emissions target that had been set. Even so, the target dates remain unchanged. Thus, any remedial measure that can be undertaken as of now, is bound to assume renewed urgency.

The ongoing series of events that have affected the global scene during the past twelve months have confirmed the uncertainties identified last year. Overall the indications are that so far the electronic communications sector is faring well, however progress takes place in a situation of overall unpredictability, which still needs time to unfold. Meanwhile the postal sector still suffers from the negative impact of the above-mentioned events. In this case as well, a final outcome is not yet visible.

Thus, the impact of the overall international context on the Maltese Communications sectors remains uncertain for some time to come.

## Policy Developments

From the Authority's perspective there are no significant changes to report relative to EU policy direction. Thus, what was noted in last year's Strategy Update remains relevant for the forthcoming Plan Period.

There are, at the same time, a number of developments that have duly taken place and that are worth flagging.

On the 14<sup>th</sup> July a political agreement was reached by the European Parliament and the Council of the EU on the 2030 Policy Programme: Path to the Digital Decade, which sets up a monitoring and cooperation mechanism to achieve the common objectives and targets for Europe's digital transformation, set out in the 2030 Digital Compass. This latter document was identified as a key context in the MCA's Strategy Update for 2022-24 and remains so for the forthcoming period.

The Digital Compass emphasizes four cardinal points for mapping the EU’s trajectory, namely:

1. A digitally skilled population and highly skilled digital professionals
2. Secure and performant sustainable digital infrastructures
3. Digital transformation of businesses
4. Digitalisation of public services

The MCA remains involved in each of the above ‘cardinal points’, albeit to varying degrees. The more obvious contributions are in the second and third cardinal points, wherein the Authority is involved by way of its mandates in electronic communications and digital regulation. The Authority still provides an important, albeit ‘softer’, contribution to the first and fourth pillars, however.

On a related note, in January 2022 the Commission also proposed to the European Parliament and the Council to sign up to a declaration of rights and principles that will guide the digital transformation in the EU. The MCA has a direct involvement in several of the Rights and Principles listed in the (draft) document.<sup>5</sup>

The European Commission intends to enhance the Digital Economy and Society Index (DESI) and will review progress made with regard to the Digital Decade targets, objectives as well as rights and principles referred to above. The Commission is to carry out the stated DESI updates in 2023.

Meanwhile the DESI for 2022, published in July 2022, again placed Malta in 6<sup>th</sup> position overall out of the EU 27, despite arguable rankings in the 5G spectrum and coverage and uptake of at least 1 gigabit by households.

The Digital Services Act, which the Authority followed throughout the legislative process, was approved by the Council of Ministers and the European Parliament and has been formally published on the 27<sup>th</sup> of October 2022. The next step for the MCA is now to assist Government in making the necessary adjustments to Maltese legal provisions in order to render effective the necessary executive requirements. The bulk of the DSA’s provisions will apply 15 months after it enters into force (i.e. February 2024) by which time member states also need to appoint the Digital Service Coordinator and to notify the European Commission accordingly.

Another major addition to the Authority’s portfolio of tasks and deliverables, derives from obligations placed by the European Electronic Communications Code on the Body of European Regulators (BEREC) of which MCA is a member. BEREC has been entrusted with

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<sup>5</sup> In a nutshell, the Digital Rights and Principles addressed by the Commission document are: People at the centre of Digital Technologies, solidarity and inclusion, freedom of choice, safety and security and sustainability and the green transition (Digital Rights and Principles Fact-Sheet January 2022)



the submission of various opinions in relation to how several measures, contemplated in the Code, would be implemented in practice. Participation by the MCA in BEREC now goes beyond useful practice and becomes a legal requirement under article 3 of the BEREC Regulation<sup>6</sup>.

Other expected developments on the EU front were relative to a review of the Broadband Cost-Reduction Directive (BCRD) and the Postal Directive. In both instances progress has been less expeditious than anticipated.

Other areas that are, or could be, of relevance to the Authority are:

- The eventual implementation and operation in Malta of the Digital Identity Wallet, which is being proposed under the e-IDAS 2 Regulation, in light of the Authority's regulatory responsibility with respect to the oversight of trust services providers.
- New qualified trust services related to electronic attestations of attributes, eArchiving, eLedgers and Remote QSCD management that are being proposed under eIDAS 2.
- The EU Data Act, launched in February 2022, intended for the sharing of data by both government and private sectors in order to redress unfair situations in data-sharing contracts and enable the better sharing of data between public service national bodies.
- The European Accessibility Act, which is a far-reaching regulation that addresses all forms of accessibility, among which, accessibility to private-sector websites.
- Pronouncements made by the EU Commission on the need to consult over whether big tech giants should bear some of the costs of Europe's electronic communications networks.
- The Universal Postal Union (UPU) Extraordinary Congress 2023 and the World Radio-Communications Conference (WRC) 2023, which will both take place next year. The Authority, as the representative of the Government of Malta, will be involved in both.
- The envisaged European proposal for a Regulation titled the Cyber Resilience Act.
- The discussion on relevant parts of the draft NIS 2 Directive, where these impact the Authority's mandate.

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<sup>6</sup> Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office)

- Space-related topics, notably Galileo and GovSatCom, in relation to which the MCA provides policy advice to Government.

## Sectoral Outlook

### Electronic Communications

Overall usage and revenue statistics continue to indicate that the sector remains in a strong position despite the overarching economic issues indicated previously. Among others, roaming revenue has risen significantly from the abnormal slump experienced during the worst period of the COVID-19 pandemic.

Fixed line infrastructure deployment continues to occupy centre-stage with all three major electronic communications networks continuing with ongoing investments in ultra-high speed networks. GO has progressed with its FTTH deployment which now stands at around 60%. It intends to reach full deployment over the next few years. Meanwhile EPIC has also continued with deployment of its FTTH network in the Mosta/Attard/Balzan area. It has secured a substantial EIB loan to finance its 5G and FTTH build-up with a stated 25% national deployment of the latter by 2024. Melita's cable network is already capable of reaching 1.2 GB/s nationwide. Even so it also continues to invest in its fixed line network and intends to trial FTTH in the near future.

Epic's entry means that the possibility of a third nationwide fixed line operator is now a distinct hypothesis. The flipside is that deployment takes time and may necessitate temporary or permanent access requirements that only other operators or non-telco infrastructure players, or a mix of both, may provide.

The current state of play presents a delicate balance between competition and regulated access. The Authority is obliged to move in step with market developments. In line with such developments, it is proposing the liberalisation of the market for Wholesale Dedicated Capacity (Market 2) from the SMP regime. A decision on the Market for wholesale local access provided at a fixed location is also expected in 2023.

Ultimately, the successful adoption of voluntary commercial access agreements will no doubt condition the nature and extent of regulation, if any, moving forward.

Among the various considerations outlined above, infrastructure access, which has already been identified as an increasingly important element in the new scenario, continues to increase in profile, given ongoing deployments. This situation and the relevant implications were clearly outlined in last year's Strategy Update. Among others it was stated that:

*“Meanwhile, the Authority is aware that comprehensive information on available passive infrastructure will serve other important purposes and will be required not just by this Authority but also by Government in the pursuit of several key policy objectives.”*

During the current year a significant amount of information was gathered as regards passive infrastructure that is ideal for the deployment of electronic communications networks. This is a first step and further drilling-down is required for more comprehensive utilisation of such

information to the benefit of all stakeholders. Nonetheless the information already in hand serves as a good basis for establishing what actions may be required in order to ensure that network distribution bottlenecks are minimised and competition issues do not arise.

As stated, this complex activity will continue in the coming years. It will take some time for a comprehensive picture to emerge, but the investment will have been worth the while, in terms of efficiencies and environmental outcomes. As for the regulatory framework to be adopted in relation to passive infrastructure access, there are two main options, both of which are intended to encourage third-party access to passive infrastructure. Thus, beyond the possible adoption of an SMP based access requirement on the part of the MCA, an access seeking operator can evoke the provisions of Cap 81, which transposes the Broadband Cost Reduction Directive (BCRD).

This is one of the reasons why there is interest on the part of the Authority in the review of the BCRD on the part of the Commission. As stated, a first draft of the revised Directive should be available before the end of 2022. Meanwhile, however, the provisions of the current BCRD are being followed and will be applied as necessary. One significant development in 2022 was the constitution of the Utilities Services Advisory Committee under Cap 81, which worked extensively on the production of high-level access guidelines for operators under the BCRD. The Committee's membership is made up of representatives of the various regulatory authorities involved. Beyond the immediate terms of reference, it is augured that the Committee will also serve as a catalyst towards the establishment and maintenance of a joined-up approach to passive infrastructure deployment.

In the meantime, the Authority in the course of 2022 has embarked on the preparatory stages relative to the mapping of broadband infrastructures and services. The project is intended to reach the obligations of mapping out the reach of broadband networks as required by Article 22 of the European Electronic Communications Code (EECC). The implementation of the broadband mapping solution and its underlying processes and procedures is slated for December 2023, as required by the EECC. The mapping platform will cater for information on services availability, investments, quality of service, speed coverage and available technologies (such as VDSL, FTTH, DOCSIS 3.1, FWS) down to street level.

The geographical survey of the coverage of electronic communications networks capable of broadband services, should eventually go beyond the primary objective and help identify bottlenecks at the infrastructure level. It will also help to identify concerns with the redundancy and security of networks. This initiative, whilst not directly related to the availability of passive infrastructure, represents another step in establishing facts on the ground and in subsequent iterations would also be useful in the provision of field information to the Single Information Point (SIP), which function is owned by Transport Malta. It will therefore form a useful expandable platform to the benefit of all operators and other stakeholders.

Meanwhile, a targeted initiative in relation to Quality of Service of fixed line networks has been under way throughout 2021 and 2022 and should see a conclusion and relevant results in 2023. The initiative is in relation to the performance of operators in relation to both commercial and technical aspects. It will represent an important symmetrical measure that records comparative operator performance, to the benefit of both users and service-providers.

The mobile telephony access market has been competitive for a significantly long time now. Although in relation to price levels within other Member States there remains margin for

improvement<sup>7</sup>, overall prices maintain a constant downward trend, whilst products increase in attractiveness, mainly through improving data allowances. The results are clearly visible year-on-year through marked increases in data consumption by users. Throughout, operators have maintained their tempo of investments, backed by a healthy financial position. Thus the statistics remain positive throughout. All three major operators have now launched their 5G networks, which may also present interesting possibilities for the eventual proliferation of ultra-high-speed Fixed-Wireless Access (FWA) solutions, beyond the current niche presence.

The three 5G networks are currently at different stages of development but all should be fully operational by the end of 2023 in line with spectrum licence commitments. The Authority remains committed towards supporting deployment of such infrastructures through the necessary regulatory facilitation and other interaction as necessary. A 5G cyber-security risk assessment and the establishment of QoS measures will need to be carried following full deployment of 5G networks.

The mobile telephony sector also presents regulatory challenges of a different nature, largely through the utilisation of Frequency Spectrum. As a result, a number of interesting questions that have policy and regulatory implications need to be addressed.

The advent of 5G means that the concurrent running of four mobile networks by each mobile operator, that is, 2G, 3G, 4G and now 5G networks, raises questions of efficiency, manageability and environmental implications. A rationalisation exercise via the reduction of any one, or more, of the legacy networks presents complexities well beyond what might seem evident at first glance. Nonetheless, a way forward on the matter should be established, to the benefit of all stakeholders involved. The Authority is intent on addressing this matter beyond the level of principle and intends to engage with operators concerned on the eventual migration of services over legacy bands to 5G with a view to eventual switch-off of legacy networks.

The Authority has meanwhile carried out a significant upgrade of frequency management processes and equipment. The long-term investment initiative commenced last year with the purchase of equipment for the purpose of Electronic Magnetic Frequency (EMF) measurement for public health purposes, as well as to identify and locate interference to licenced frequency spectrum. The investment concerns mainly equipment, software and training. The current year has seen the preparation phase of such an investment. 2023 should now see the fruition of such important initiatives.

Security and integrity of public communications networks is another area of concern that is being addressed. The MCA has the powers to establish the minimum-security requirements which ECS and ECN providers would need to follow, in order to ensure that the security objectives and obligations set at law are met. Having established the minimum-security requirements, the MCA shall then ensure that such measures are being implemented and adhered to by the ECS/ECN providers. This is a task that spills over from 2022. During the current year, work centered on the establishment of the necessary standards that would be common to all sector operators without causing undue disruption. The coming year should

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<sup>7</sup> European Commission: Mobile and Fixed Broadband Prices in Europe 2021

see the formalization of such measures, following a security audit, together with the implementation of relevant processes and reporting requirements via a reporting tool.

The review of licensing frameworks with respect to various frequency bands will continue throughout 2023. In accordance with European Union law these bands are suitable to support the deployment of terrestrial systems capable of providing next generation (5G) wireless networks, including fixed wireless links intended for the backhaul of 5G data where necessary.

The expiry of a number of these licences provides an opportunity to hold a multi-band spectrum assignment process and in doing so enhance the efficiency on how these frequency bands may be used. The process will also serve to implement the latest EU Decisions harmonising radio spectrum in the said bands. Having said this, it does not follow that take up of these bands, alongside other existing bands already available to market, will automatically follow, given the overcapacity of available spectrum in Malta. In this respect a longer-term study on how to make productive use of idle spectrum is envisaged is slated for 2024, with a more flexible application of contractual conditions as a policy tool. The availability of unused spectrum also opens up the possibility of one or more additional mobile operators entering the market.

As stated, whilst the MCA is adhering to the obligation of making the relevant spectrum available as required, even with the intent of exploring alternative pricing models, it cannot guarantee take-up. In this respect a segment of the 26GHz band, nominally available for 5G use has been earmarked for possible uptake by private ECNs, as a means of supporting IOT-based uptake for short-range industrial use. This is a future-looking measure which will not necessarily bear fruit in the near-term, however the relevant capacity requirements need to be planned beforehand. The establishment of a fee structure will be another important step in the making available of this resource.

The 4GHz band is another band that is earmarked for deployment of terrestrial wireless broadband systems providing local-area network connectivity in support of innovation and digital industrial transformation. The relevant technical studies at EU and CEPT level are still underway and the Authority will participate and follow the discussion until formalization of the band by Q1, 2024. The MCA will be following the discussion relative to other wavebands at international level, leading up to implementation of the relevant European legal acts.

The assignment process for DAB frequencies is also expected to take place in 2023, after Malta successfully coordinated further frequencies with neighbouring States and prepared the framework for a new assignment process in line with the new state of affairs. The recent co-ordination of additional DAB frequencies means that a strategic distribution of spectrum, with reservation for various uses, is now more feasible than previously the case. Having said this, a recent call for expressions of interest for spectrum resulted in only one interested operator, that is, the longstanding private DAB network operator.

As far as FM transmission is concerned, there is no need for an eventual switch-off in the foreseeable future and transmission can continue unencumbered alongside DAB.

In line with Government's commitment to reduce the administrative burden, the MCA has embarked on the digitization of licences for radio communications apparatus. This is a multi-year project and throughout 2023 the MCA intends to finalise the tender aware for the procurement of the relevant computerized system. Another area slated for administrative

improvements is the aeronautical radio licensing regime and a review of this framework is targeted for the coming year. a public consultation procedure is planned by the end of 2023, following the necessary studies.

## Digital Services

As indicated earlier on, the MCA has been given the mandate to administer the provisions of the EU Digital Services Act and the Platform to Business Regulation. During the last few years the Authority has been actively following the international debate on digital services and markets, as the risks of dominance by a handful of international digital platforms became too strong to ignore. The related issues are largely (but not solely) international in nature and the regulatory solutions under consideration need to be aligned accordingly. It is clear that a coordinated approach at an international or supranational level is necessary if remedies are to be effective and this is the approach adopted by the EU27.

In June of 2021 the MCA was entrusted by Government with the oversight of the Digital Services Act (DSA), which was presented by the Commission together with the Digital Markets Act as a comprehensive package. The latter falls under the purview of the Director General (Competition) within the Malta Competition and Consumer Affairs Authority (MCCAA).

The Commission made the proposals in December 2020 and on 25 March, 2022 a political agreement was reached on the Digital Markets Act, and on 23 April, 2022 on the Digital Services Act. The Commission deems the two regulations as forming a single set of new rules intended to create a safer and more open digital space. The Commission states that:

“The DSA and DMA have two main goals:

1. to create a safer digital space in which the fundamental rights of all users of digital services are protected;
2. to establish a level playing field to foster innovation, growth, and competitiveness, both in the European Single Market and globally.”<sup>8</sup>

At a national level, Government has designated the MCA as the Digital Services Coordinator (DSC) for the DSA which comprises the overall management of the DSA within Malta and the role of rapporteur to the EU as Malta Representative, on behalf of all Maltese competent authorities that will play a part in the enforcement of the DSA. The DSC also acts as the sole liaison with the European Commission in relation to enforcement and policy advice. Official notification of this designation to the EU will need to be made by February 2024.

Regulation (EU) 2019/1150<sup>9</sup> of the European Parliament and of the Council of 20 June 2019, promotes fairness and transparency for business users of online intermediation services (referred to as Platform to Business (P2B) Regulation. The P2B Regulation sets the rules aimed at creating a fair, transparent, and predictable business environment for smaller

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<sup>8</sup> <https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package>

<sup>9</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019R1150>

businesses and traders on online platforms. The P2B Regulation complements the MCA's regulatory remit in Digital Services.

The setting up by the MCA of the necessary internal organisation and the establishment of working processes and relationships with fellow Maltese Institutional players and other stakeholders, as well as with the relevant players within European Union, are now the significant challenges that the Authority faces during the coming Plan period.

Meanwhile the application of the Web Accessibility Directive is successfully up and running after two years in operation. The same applies to the regulation of trust services. With respect to both initiatives, the Authority will be addressing a new phase, that is, public-awareness raising so as to maximise the utilisation of the relevant services. Beyond targeted initiatives, the Authority will also develop a Digital Services Forum. This initiative is set on developing a stakeholder echo-system in order to ensure a sound digital services policy on an ongoing basis.

Moreover, a series of MoUs are being agreed and signed with various organisations and associations that have an interest in this sector. The main reason behind these MoUs relates to sound policy development and general public awareness. Through these MoUs, the MCA will be in a position to collaborate with various stakeholders and thus target their respective audiences in a more efficient manner.

The public awareness and networking initiatives are a logical sequel to the establishment of these regulatory measures, given their relatively recent origin, and therefore lack of widespread visibility. In such manner the relevant beneficial outcome - that of increased public uptake - will be maximised.

With respect to eCommerce regulation, given the strong increment of Maltese online services and their usage, the MCA will review the current system of market monitoring with a view to widening the scope of such oversight, thereby increasing certainty to buyers. Instilling more security in eCommerce transactions will also be addressed via a joint initiative with the MDIA in order to assist eCommerce operators in improving their security posture.

The Authority will need to invest the necessary time and resources in the rapidly growing area of Digital Regulation. Thus, the key emphasis will be on the establishment of the necessary organisation and relevant processes and their resultant operation.

## Postal Services

The trends in postal services identified in the updates of the past few years continue to subsist as letter volumes decline. The fall in letter volumes is a global phenomenon. However, in the particular case of Malta the impact of the COVID-19 pandemic, Brexit and EU taxation regime changes on individual online purchases from third countries, notably China, have all contributed to a downward spiral in inbound postage of packets and parcels as well.

The situation has triggered a downward trend in postal volumes and revenue, particularly as regards inbound eCommerce-related mail. This trend was also visible with respect to other Maltese inbound mailers. Rising costs of transportation have exacerbated the situation.

In last year's outlook it was stated that *“The ongoing trend in volume declines in the universal letter mail service is likely to necessitate corrective action in the size and extent of the related universal service obligation, as has been stated in previous strategy updates. The forthcoming review of the Postal Directive is also likely to address this matter.”*

The trend in volume declines has continued, fuelled also by increased use of online facilities instead of paper mail, as a result of COVID-19. This 'digital substitution' is unlikely to revert to the original baseline, post-pandemic. Meanwhile, the envisaged launch of the EU review of the Postal Services Directive has not yet taken place. Whilst it would have been ideal to have the EU take on the strategic mantle regarding postal sector regulation, the deleterious effect of such a delay is relative. Stakeholders involved in postal sector regulation can still manoeuvre within the limits of the existing Directive, as transposed in Maltese law.

The need for a review of the Universal Service Obligation becomes more pressing. The parties involved, that is, the Universal Service Provider, the National Regulatory Authority (MCA) and the Government need to find the necessary balance between quality of service, the extent of the universal service obligation and the relevant operational costs involved, so as to ensure that the service is attuned to today's needs, is cost effective and at the same time sustainable over the longer term.

The Universal Service Provider has already embarked on a number of measures set at maximising efficiencies. Further adjustments, in agreement with the other mentioned parties should put the service back to the desired rates of return. This is the outcome that all parties are committed to and the challenge now is to come to a convergent plan of action that achieves this.

It is augured that in the meantime an element of recovery in inbound eCommerce-related mail will take place, but any such recovery is not yet evident and confirmation of such an eventual trend can only be obtained after a period of time.

## Policy Shaping

The MCA's activity in this area was rather sustained during 2022, as outlined earlier. The Authority provided input to Government on a host of policy matters, notably new EU-driven legislative initiatives as well as reviews of existing Directives. Mention has already been made of the Digital Services Act, which is the most visible of the crop of new legislative proposals that the Authority has tackled in the last couple of years. Whilst work on the internal organisation and process flows in relation to the DSA is under way, there is still an element of policy input to Government that is taking place, as the inclusion of the necessary provisions into national law that give the MCA the necessary powers into national law, will spill over into the first half of 2023. Meanwhile the MCA will also be following the European Commission in the setting up of the necessary processes and procedures to make the Act effective 'on the ground' within the required 15-month timeframe. This is the next challenge for all concerned.

The new Electronic Communications Code places a requirement on the Body of European Regulators for Electronic Communications (BEREC) for the submission of various Opinions in relation to how new legal obligations, now contemplated in the Code, would be implemented in practice. Thus, participation in BEREC now goes beyond useful practice and becomes a legal requirement. A series of specific tasks have been assigned to BEREC, among which,



the drafting of Opinions to the EU Commission expected to be delivered by BEREC in 2023, such as the Review of the Intra-EU Communications Regulation; the Review of the Commission Implementing Regulation on the Fair Use Policy and Sustainability of the Roaming Regulation; and the Opinion on the functioning of BEREC and BEREC Office for the evaluation under Article 48 of the BEREC Regulation. As an active member of BEREC, the MCA has the obligation to participate in the drafting and adoption of these Opinions.

Other work by BEREC is in relation to recent pronouncements by the EU Commission on the need to consult over whether big tech giants should bear some of the costs of Europe's electronic communications networks, what is being referred to as a 'fair contribution' for the extensive usage of network capacity. A consultation is expected to be launched in the first quarter of 2023, and take five to six months. It is expected that any approach by the MCA towards the matter will be carried out in the ambit of BEREC. The latter adopted and published its preliminary assessment on this matter after its 52<sup>nd</sup> Board of Regulators Plenary meeting held in October 2022.

Another significant task that the MCA expects to address is the revision of the Broadband Cost Reduction Directive. The Commission is intent on presenting a first draft by the end of the current year, following some slippages. The implications are that 2023 should see the revised draft law being discussed in earnest. The MCA will be involved in providing the necessary input to Government during the Council discussions on the draft, together with Transport Malta and other stakeholders. An enhancement of the Directive would come in useful if it provides additional clarity in processes, measures and relationships, to the benefit of all stakeholders concerned.

The review of the Postal Services Directive is another important EU exercise that was scheduled for 2022, however visible progress has been negligible and there are as yet no indications of developments unfolding in 2023. A number of Member States, Malta included, have exhorted the European Commission, through the European Council, to take up the review of the Directive as planned. In any event, the MCA should be ready to address any such review once it is launched. In the meantime, regulatory activities in relation to Postal Services, as already referred to above, will take place within the ambit of the existing Directive, while at the same time taking into account the envisaged direction of the eventual review, which the Commission has already outlined.

The Authority is also following the proceedings involving the draft NIS 2 Directive, insofar as it now proposes the migration of security-related elements from the Electronic Communications Code and the E-IDAS Regulation. The tracking of the relevant migrated elements is with a view to address any possible changes that may affect the current workings of the Authority in relation to these policy areas.

The Authority is following other EU legislation that is already enacted but is in the process of being assigned by the Government to a representative institution. This is the case with the eventual implementation and operation in Malta of the Digital Identity Wallet, which is being proposed under the E-IDAS 2 regulation. The MCA, as the responsible entity for the oversight of qualified trust services providers, is currently following progress at the Maltese level, along with other stakeholders.

The European Accessibility Act is a far-reaching regulation, that addresses all forms of accessibility to the benefit of disadvantaged segments of society. Among these is the accessibility of websites. The MCA is already responsible for the auditing of public sector websites under the Accessibility Directive and has already acquired a significant head-start in website auditing experience, to the extent that its approach has been cited as best practice by the International Association for Accessibility Professionals (IAAP). Meanwhile the government has assigned the website-related provisions of the Accessibility Act to the Commission for the Rights of Persons with Disabilities (CRPD). It is possible that the MCA may also be involved in the auditing role via an MOU between the two mentioned parties. But it is as yet early to assume that the agreement will come into effect.

The EU Data Act, is another important proposal by the European Commission intended play a key role in Europe’s digital transformation. It was launched in February 2022 and is intended for the sharing of data by both government and private sectors to provide aftermarket or other-data driven innovative services, redress unfair situations in data-sharing contracts and enable the better sharing of data between public service national bodies. The draft Regulation is still in proposal form<sup>10</sup> and being discussed at European Parliament level. The MCA is following the debate and provides input as necessary although it is not expected to play a regulatory role.

The Universal Postal Union (UPU) Extraordinary Congress 2023 will debate the participation of ‘non-incumbent’ postal operators within the UPU, as a reflection of an increasingly multi-player environment, as well as address matters concerning terminal dues.

The World Radio-Communications Conference (WRC) 2023, will also take place next year and the debate will centre on the best use of certain frequency bands. Whilst the clearing of bands for mobile use is nominally the best option, this does not necessarily apply across the board and possible alternative uses, such as for much-needed Wi-Fi purposes, may in effect result in a more productive outcome.

Later in 2022 the Commission intends to launch a proposal for a regulation titled the Cyber Resilience Act. The Commission states that the initiative “aims to address market needs and protect consumers from insecure products by introducing common cybersecurity rules for manufacturers and vendors of tangible and intangible digital products and ancillary services.”<sup>11</sup> The MCA will follow the proposal and address any matter that may turn out to be relevant to the sectors within its regulatory remit.

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<sup>10</sup>[https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733681/EPRS\\_BRI\(2022\)733681\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733681/EPRS_BRI(2022)733681_EN.pdf)

<sup>11</sup>[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13410-Cyber-resilience-act-new-cybersecurity-rules-for-digital-products-and-ancillary-services\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13410-Cyber-resilience-act-new-cybersecurity-rules-for-digital-products-and-ancillary-services_en)

The Authority is also active in the European Mediterranean Regulators Group (EMERG), which acts as a forum for regular discussions and exchanges of information for its Members on issues relating to electronic communications.

The MCA will continue to provide policy advice to Government relative to Space-related topics, notably Galileo and GovSatCom as the nominated entity to represent the Maltese Government on several related committees and boards at European level. In relation to GovSatCom, subject to direction, the Authority may take on a number of actions, among which recommending to Government the most efficient and effective set-up of a GALILEO Public Regulated Service (PRS) Authority at national level. The GALILEO PRS provides position and timing restricted to government-authorized users, for sensitive applications which require a high level of service continuity.<sup>12</sup>

Another policy area on which the Authority provides advice to Government is that in relation to Internet Governance. In particular, the MCA has continued to represent Malta in the High-Level Group on Internet Governance (HLIG) which is an expert group comprising experts from European member states with a view to ensure coordination at the European level and share expertise on internet governance related issues. On a related matter, the MCA will also continue to represent Malta on the ICANN Governmental Advisory Committee (GAC) which constitutes the voice of Governments and Intergovernmental Organizations (IGOs) in ICANN's multistakeholder structure.

In essence, most of the above-mentioned policy initiatives are known quantities and make for continuity from a strategic perspective. Having said this, the burden of following the relevant proceedings and translating the resultant policies into tangible outcomes, will be substantial. Above all, it necessitates an adequate number of knowledge workers who are both qualified and experienced in the required fields. Unfortunately, under the current conditions it is quite difficult to both hire and retain the necessary human resources.

## Research and Development

The Authority carries out an element of research to the extent that its human and financial resources allow. This research is necessary to maintain currency with relevant technological and policy developments. The Authority needs to be in a position to react in time to such developments in the event that they become mainstream.

In carrying out such research the Authority explores any funding opportunities that can be available, mainly at EU level. To this end the MCA tracks upcoming funding calls on an ongoing basis. Areas of interest include 5G, Cyber-Security and IOT. Participation in such initiatives, which are normally of a multi-national nature, augments the MCA's exposure to new

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[https://gssc.esa.int/navipedia/index.php/Galileo\\_Public\\_Regulated\\_Service\\_\(PRS\)#:~:text=The%20GALILEO%20Public%20Regulated%20Service,mechanisms%20and%20reliable%20problem%20detection.](https://gssc.esa.int/navipedia/index.php/Galileo_Public_Regulated_Service_(PRS)#:~:text=The%20GALILEO%20Public%20Regulated%20Service,mechanisms%20and%20reliable%20problem%20detection.)

R&D, business innovations and initiatives in the areas that fall under its purview, notably the electronic communications sector. The Authority's status as the Broadband Competence Office for Malta complements its role in seeking funding opportunities.

Research on the status of sectors under the MCA's sphere of responsibility, in relation to the European Green Deal, is set to continue in 2023 in a more tangible manner, following the necessary information gathering and interaction with Maltese Operators, as well as with fellow Member States, notably through BEREC and ERGP. Early in 2023 the Authority will have produced a first public statement of what it views as the key issues and deliverables relative to the achievement of gradual carbon neutrality in the sectors that it regulates. Despite the progress made the initiative is still deemed as developmental and for the moment will be treated as such, under the Authority's relevant strategic objective header (SO9).

Whilst the Authority does not so far carry a specific legal mandate on the regulation of emissions in these sectors, it is deemed that the necessity to act, at the least via the gathering and publication of information and good practice guidelines, is justification enough. The Authority sees itself playing a role even within its current responsibilities and will present its views in the forthcoming publication.

Beyond regulatory aspects, the electronic communications and digital services sectors have a role to play as a catalyst for energy savings in other economic sectors, thanks to smart solutions that the technology can produce. The Authority intends to identify its role in furthering the widespread use of such solutions. This potential is also borne out in the recent draft National Strategy for the Environment 2050, published by the Environment and Resources Authority (ERA) for consultation, which also refers to the beneficial environmental multiplier effect of electronic communications and digital solutions on other sectors.

It is to be remarked that from interactions with regulated operators carried out last year, it emerged that most operators have, of their own accord, taken tangible and extensive measures to control their emissions.

## Overall Outlook

The general outlook is therefore one characterized by a number of envisaged developments, notably:

- A number of 'bottom-up' sector-driven issues that can exert influence on strategic direction and that need to be addressed soonest, notably competition regulation in electronic communications and sustainability of the universal service.
- The bringing to conclusion of several key initiatives, notably in electronic communications networks, both fixed and mobile, having to do with mainly with quality and security.
- Monitoring of 5G deployment in line with established licence conditions
- Further exploration of efficient use, wherever possible, of currently available but unclaimed spectrum
- Enhanced participation in BEREC in view of the relevant provisions in the European Electronic Communications Code

- The setting up on a solid footing of a Digital Regulation function, that now has to deliver on several recently-assigned mandates.
- Enhanced collaboration with fellow public institutions on several aspects of the MCA's regulatory mandate, given also the requirements under the Digital Services Act.

### Next Steps

This outlook serves to set the scene for the Authority's strategic direction during the plan period. In general, the trend is overall one of continuation of the existing strategic direction established by the Authority for all regulated sectors.

### 3 Key Considerations

The underlying context to the Strategy Update for the period 2023 - 2025, provided in Section 2, effectively translates into a number of underlying key considerations:

- Facilitating the deployment of ultra-high speed fixed and mobile electronic communications networks remains a priority.
- A vibrant, competitive, multi-player market remains the key driver for positive market developments.
- The Authority will maintain competitive stimuli in the respective sectors via the right mix of regulation, information and facilitation.
- The nature and extent of commercial access agreements between operators is an indicator of competition in the respective markets and thereby influences the extent of regulation.
- Passive infrastructure access contributes to a competitive environment via efficiencies in network deployment, apart from producing positive environmental impacts and reductions in roads maintenance and urban disruption.
- Increased dependence on the Internet, by citizens and businesses alike, raises the stakes for the maintenance of the necessary levels of network and information security as well as network resiliency and redundancy.
- Broadband as a universal service presents new opportunities in bridging the digital divide.
- A thorough, ongoing and joined-up assessment of quality-of-service delivery serves to give better all-round awareness of service levels, leading to lasting improvements.
- Beyond the objectives set in the EECC, broadband mapping will provide a capillary indication of user-experience, as well as providing a modular platform for incremental information on network deployment and access options.
- Wider end-user-related powers, as advocated by the EECC, will render the Authority more effective in the execution of its mission, to the benefit of end-users.
- Consumer protection will continue to be addressed through a mix of awareness-raising and regulatory intervention.
- The monitoring of user quality of experience in the use of communications services is a valuable indicator of actual quality of service.
- Spectrum policy and management serves as a key tool in ensuring lasting efficiency, quality, safety and environmental awareness in electronic communications service delivery.

- Spectrum policy and management will be tailored to the needs of the national jurisdiction, within high level strategic and policy frameworks set at EU and international levels.
- The main challenge in a liberalised postal market will be ensuring the sustainability and currency of the universal service in the face of changing mail dynamics.
- The postal Universal Service Obligation should reflect users' present-day needs.
- The Authority will continue to develop the potential of electronic signatures and other trust services in order to facilitate any type of electronic transaction between citizens, companies and public administrations.
- The regulation of digital services will be addressed through a mix of regulatory oversight and stakeholder awareness.
- Initiatives to strengthen awareness of rights and obligations on both the supply and demand sides of ever-increasing local eCommerce activity, are one such instance of the need for stakeholder awareness raising.
- The Authority will supplement its monitoring role relative to online accessibility via awareness-raising initiatives, thus contributing to the inclusion of disadvantaged segments of society.
- The Digital Regulation function will be strengthened in line with new responsibilities assumed by the Authority.
- The Authority will leverage its expertise in the sectors on which it has oversight, in providing related policy advice to Government.
- Active participation in EU and international fora will remain high, in view of the need to consistently put forward Malta's position, particularly in areas which are of particular relevance to the domestic environment.
- In particular, participation in BEREC assumes a higher profile in view of its advisory role to the Commission under the new European Electronic Communications Code.
- Synergies with fellow institutional players will be continuously fostered and strengthened as necessary, also in light of new responsibilities assumed by the Authority under the Digital Services Act.
- Environmental considerations, in line with the principles set in the European Green Deal, will be gradually dovetailed in the Authority's work programme.

The above considerations effectively serve to shape the MCA Strategic Objectives and work-programme.

## 4 Mission and Underlying Principles

The MCA's mission statement is stated hereunder:

- **To promote and safeguard a communications environment that is conducive to investment, innovation, economic growth and social well-being.**

The Mission Statement reflects the MCA's commitment to bringing forward all forms of communication under its legal mandate, given also that all these constitute inter-related parts of the same eco-system.

The MCA's mission statement embodies a set of principles, which the Authority holds central to all the activities that it carries out, namely the following:

- The Authority views, in equal measure, all the communications sectors within its legal mandate as essential for the attainment of its mission, given that the individual sectors form inter-dependent components of the same eco-system.
- In striving towards the fulfilment of its Mission the Authority identifies a raft of Strategic Objectives that it updates periodically in line with relevant developments.
- The relevant Strategic Objectives serve to provide the Authority with the necessary direction and focus in the fulfilment of its Mission.
- The MCA's activity should serve to overall contribute to Malta's transition to a knowledge-based society and economy and to the maximisation of social and economic welfare.
- The Authority will serve as a focal point for policy shaping and implementation.
- The Authority's decisions will be reasonably transparent and duly motivated, such as to facilitate decisions by market players, policy makers and all other stakeholders.

In order to achieve its mission, the MCA will need to retain the necessary freedom to operate, whilst remaining accountable with respect to achieving Government's policy objectives. Thus, the Authority will:

- Maintain the required level of independence enshrined in the European Electronic Communications Code as transposed in national legislation.
- Consistently strive to co-ordinate its actions with Governmental and other stakeholders in the pursuit of its mandate.
- Measure and review its performance on an ongoing basis.
- Ensure that it is sufficiently resourced with the right level and mix of expertise and adequately financed to carry out its mission and mandate at optimal levels.



## 5 Strategic Objectives

The MCA's Strategic Objectives for the period covered by this Plan are listed in this Section. As with the Mission Statement, these objectives are reviewed on an annual basis and fine-tuned or changed as necessary, in order to maintain full consistency and currency with the MCA's Mission and Mandate, in the context of the fast-changing environment in which it operates.

No changes to the Authority's Strategic Objectives have been made in relation to the previous update. This is in line with the conclusion that in relation to its predecessor, the 2023 Strategy Update overall retains continuity in both direction and major initiatives.

The above considerations translate into the following strategic objectives:

1. Promoting and safeguarding competition in the electronic communications sector
2. Ensuring that electronic communications undertakings provide a transparent, quality service to users in line with incumbent social obligations
3. Maintaining open, safe and secure electronic communications
4. Maximising the potential of radio spectrum
5. Supervising the provision of relevant digital services
6. Safeguarding sustainable competition in the postal sector
7. Ensuring that postal undertakings provide a transparent, quality service to users in line with incumbent social obligations
8. Contributing to the ongoing development and implementation of sector policy
9. Conducting relevant research, exploring and developing emergent policy areas

The MCA's projects and ongoing tasks will all be targeted towards the achievement of any one of the above strategic objectives, barring activities of a corporate or operational support nature.

## 6 Individual Strategic Objectives – Outlook/Key Tasks/New Thrusts

The Authority's major thrusts for the period under review, categorised by Strategic Objective, are outlined in this section:

### Strategic Objective 1

Promoting and safeguarding competition in the Electronic Communications Sector.

#### Outlook

- Maintaining ideal conditions for a multi-player scenario in ultra-high speed electronic communications

#### Key Tasks

- Safeguarding a competitive environment via SMP framework
- Facilitating sharing of physical infrastructure for the roll-out of Very High-Capacity Networks (VHCNs)
- Managing information as the means to promote competition
- Managing the compliance framework

#### New Thrusts

- Key thrusts are ongoing with emphasis on conclusion of Market Analysis programme and identification of related remedies.

#### Key Performance Indicators

The MCA will continue to monitor progress vis-à-vis this objective via the following key performance indicators:

#### Strategic Objective 1 – Key Performance Indicators

- Movements in number and variety of market players, as well as relative market shares
- Price movements
- Turnover and profitability movements
- Availability of updated wholesale agreements, Reference Offers and cost oriented charges, where these are required
- New service offerings
- Overall sector indicators

## Strategic Objective 2

Ensuring that electronic communications undertakings provide a transparent, quality service to users in line with incumbent social obligations.

### Outlook

- Refining regulatory tools for users to make informed choices

### Key Tasks

- Enhancing quality in the provision of publicly available electronic communications services via effective monitoring
- Enhancing the MCA's capabilities vis-à-vis consumer protection
- Ensuring Universal Access to Communications Services
- Improving consumer access to information

### New Thrusts

- Key thrusts are ongoing, with emphasis on finalisation of QoS rules and relevant monitoring framework

### Key Performance Indicators

The MCA will continue to monitor progress vis-à-vis this objective via the following key performance indicators:

#### Strategic Objective 2 – Key Performance Indicators

- Publicly available information relative to required QoS measures
- Stakeholders' perceptions of the overall value and quality of services provided
- Stakeholders' perceptions of the regulator
- % of complaints placed with MCA dealt with satisfactorily

### **Strategic Objective 3**

Maintaining open, safe and secure electronic communications.

#### Outlook

- Consolidation of Initiatives to enhance the security, integrity and reliability of public networks

#### Key Tasks

- Oversight of net neutrality practices
- Monitoring security, safety and integrity of public fixed and mobile networks
- Participation in EU and global Internet Governance Fora
- Mapping broadband services as an information tool relative to broadband network capabilities

#### New Thrusts

- Key thrusts are ongoing, with emphasis on:
  - Publication of network integrity and security measures and relevant implementation process
  - Acquisition and setting up of relevant Broadband mapping software and data population
  - Consolidation of EMF oversight via further investment in equipment and ongoing updating of methodology

#### Key Performance Indicators

The MCA will continue to monitor progress vis à vis this objective via the following key performance indicators:

#### **Strategic Objective 3– Key Performance Indicators**

- Extent of public confidence in the Internet
- Number and nature of Incident reports to ENISA
- Reports re Net Neutrality practices
- Network and Information security monitoring processes in place
- No. of ongoing inspections/site visits (interference, radiation, etc.)

## Strategic Objective 4

Maximizing the potential of Radio Spectrum.

### Outlook

- Consolidating 5G deployment
- Updating monitoring mechanisms

### Key Tasks

- Readying of additional Spectrum for 5G use
- Rationalisation of Mobile Spectrum usage for efficiency and environmental purposes
- Ensuring efficient & effective use of spectrum and associated radio-communications equipment
- Management of scarce resources used by space systems and for the provision of satellite communications services

### New Thrusts

- Rationalisation of Mobile Spectrum usage for efficiency and environmental purposes, notably engaging with Electronic Communications operators on mobile technology migration towards Voice-Over-LTE (VOLTE) and 5G Standalone (5G SA)
- Emphasis on ongoing initiatives, namely:
  - The maximisation the efficient use of Frequency Spectrum in support of 5G and other applications via review of authorisation processes and licence conditions of relevant spectrum bands.
  - The digitisation of the radio-communication licensing function

### Key Performance Indicators

The MCA will continue to monitor progress vis-à-vis this objective via the following key performance indicators:

#### Strategic Objective 4 – Key Performance Indicators

- Progress toward 5G deployments
- Improved mobile broadband speeds and penetration
- Progress towards clearance of spectrum bands designated for high-speed mobile broadband
- Extent of spectrum availability to market

## Strategic Objective 5

Supervising the provision of relevant digital services.

### Outlook

- Strengthening regulatory capacity vis-à-vis digital services,
- Increasing public awareness, confidence and accessibility

### Key Tasks

- Setting up the necessary capacity for the Digital Services Act and Platform to Business Regulations
- Organising stakeholder fora, commissioning of surveys of public usage and perceptions of eCommerce, implementing targeted information campaigns on various digital services
- Maintaining and updating regulatory oversight on relevant activities
- Monitoring public sector websites and mobile applications accessibility

### New Thrusts

- Setting up legislative and logistical requirements for the new responsibilities under the Digital Services Act and the Platform to Business Regulation.
- Raise Stakeholder awareness on Digital services such as accessibility of Public Sector websites and mobile applications, in order to maximise usage

### Key Performance Indicators

The MCA will continue to monitor progress vis-à-vis this objective via the following key performance indicators:

#### Strategic Objective 5 – Key Performance Indicators

- Changes in eCommerce uptake by businesses and consumers
- Public awareness of their rights with respect to eCommerce
- Service provider awareness of their legal obligations
- Public perception with regard to the security of eCommerce transactions
- Progress in website accessibility
- Progress in utilisation of digital signatures

## **Strategic Objective 6**

Safeguarding sustainable competition in the postal sector.

### Outlook

- Management of the competition regulatory framework

### Key Tasks

- Continuing enhancements to the MaltaPost economic regulation model
- Analysing competition dynamics in specific postal markets
- Managing the Postal compliance framework
- Monitoring performance via collection and analysis of data

### New Thrusts

- Key thrusts are ongoing

### Key Performance Indicators

The MCA will continue to monitor progress vis-a'-vis this objective via the following key performance indicators:

#### **Strategic Objective 6 – Key Performance Indicators**

- Number of postal services providers in the various postal markets
- Postal volumes, prices and other relevant trends
- New service offerings
- Universal Service Provider making reasonable return on capital

### **Strategic Objective 7**

Ensuring that postal undertakings provide a transparent, quality service to users in line with incumbent social obligations.

#### Outlook

- Supporting the continued sustainability, efficiency and quality of the Universal Service

#### Key Tasks

- Determining the ongoing feasibility of existing postal service obligations to reflect users' present-day needs
- Managing the compliance framework, with focus on quality service provision
- Ongoing management of the EU regulation on cross-border parcel delivery

#### New Thrusts

- Key thrusts are ongoing with emphasis on a focused review of Universal Service provision in light of emergent circumstances

#### Key Performance Indicators

The MCA will continue to monitor progress vis-à-vis this objective via the following performance indicators:

#### **Strategic Objective 7 – Key Performance Indicators**

- QoS performance statistics in relation to set targets
- USP and MCA Complaints statistics
- Postal volumes, prices and other relevant trends
- Public and business perceptions (biennial)



## Strategic Objective 8

Contributing to the development and implementation of Sector Policy.

### Outlook

- Providing input to Government, notably on major EU proposals, as well as on national matters.
- Contributing to the work of relevant international bodies

### Key Tasks

- Provision of input to EU-driven policy proposals
- Interaction with EU and related bodies
- Interaction with major non-EU bodies notably ITU, CEPT and UPU
- Provision of ongoing policy advice to Government

### New Thrusts

- Key thrusts are ongoing, with emphasis on:
  - Supporting Government in EU Council discussions on current and forthcoming policy proposals, notably the reviews of the Broadband Cost-Reduction Directive, the Postal Services Directive, Cyber Resilience Act and the impact of the NIS-2 Directive.
  - Engaging with CEPT and other relevant stakeholders to secure an active and fruitful contribution to the ITU WRC-23.
  - Active participation in BEREC and ERGP in the drafting of Opinions to the EU Commission, as well as in the delivery of its work programme.

### Key Performance Indicators

The MCA will continue to monitor progress vis-à-vis this objective via the following performance indicators:

#### Strategic Objective 8 – Key Performance Indicators

- The MCA will, on an ongoing basis evaluate:
  - the effectiveness of its participation in EU and international fora
  - the extent, timeliness and quality of its advice to Government on relevant policy matters

## Strategic Objective 9

Conducting relevant research, exploring and developing emergent policy areas.

### Outlook

- Exploring emergent policy areas of relevance to the Authority's mandate

### Key Tasks

- Supporting fixed and wireless broadband research and development
- Continue addressing the implications of the European Green Deal on relevant sectors and the MCA's regulatory mandate

### New Thrusts

- Key Thrusts are ongoing with emphasis on finalisation of a document on the contribution of the communications sector towards the attainment of Green Deal targets.

### Key Performance Indicators

The following are the envisaged key performance indicators relative to this strategic objective:

#### Strategic Objective 9 – Key Performance Indicators

- New and innovative services, or improvements on existing services deployed, trialled in or offered from Malta
- Assessment of Malta's performance in this area vis-à-vis any comparable benchmarks

## 7 Key Priorities and Envisaged Outcomes

### MCA Progress on 2022 Key Priorities

Insofar as the key strategic priorities that the Authority identified in its 2021 Strategy Update, it is good to note substantial progress on all fronts as indicated below:

- **MCA Priority:** Maintaining the necessary level of competition in Electronic Communications Networks and Services
- **Progress:** Significant progress has been made in the redrafting of the market analysis for market 1 during the course of 2022, following the forced withdrawal of the relevant analysis in 2020 (albeit not for an identical relevant market, as defined by the European Commission), owing to emergent market developments. A sizeable amount of market intelligence, especially with respect to infrastructure access has been garnered in the process.
- **Priority to continue into 2023**

- **MCA Priority:** Building further capacity in EMF oversight.
- **Progress:** The upgrading of equipment and processes to monitor harmful interference and EMF radiation has progressed significantly, however further iteration will be required beyond 2022 in order to implement an automated data analysis and reporting tool.
- **Priority to continue into 2023**

- **MCA Priority:** Building further capacity in network integrity and security, and cybersecurity.
- **Progress:** Significant progress has been made in the articulation of related policy, as well as in the establishment of required standards to be followed in certifying required network integrity and security. The final standards to be followed by sector operators, along with related reporting processes will be set up in 2023.
- The cybersecurity risk assessment required by the Commission relative to 5G networks will take place after the relevant 5G networks have been set up.
- **Priority to continue into 2023**

- **MCA Priority:** Continue improving the accessibility of websites and mobile applications of public sector bodies.
- **Progress:** The process is up and running and now in ongoing mode. The MCA audit process has been singled out as an example of best practice by the IAAP. The next step envisaged is the articulation of a public awareness campaign in order to better exploit the benefits of this facility
- **Priority addressed in full via consolidation of ongoing audit process**

- **MCA Priority:** Continue enhancing capability to monitor operators' QoS delivery and strengthening consumer powers.
- **Progress:** Telecosts.com has been formally re-launched and is fully functional. Meanwhile a response to consultation and decision on a host of measurement parameters is expected by the end of 2022. The articulation of reporting and publication processes will take place in 2023
- A decision on the inclusion of certain information in individual contracts is also expected by end-2022. .
- **Priority partially addressed and will continue into 2023**

- **MCA Priority:** Participating in the EU debate relative to the Digital Services Act, other digital dossiers, and the Postal Services Directive.
- **Progress:** The MCA continued to assume the role of advisor to Government on the Digital Services Act, the Digital Markets Act and the Platform to Business regulation during the debates at EU level. The enactment of the DSA at EU level came later than anticipated and as a result of this, some related activities at MCA level have also slipped and will take place in 2023. Meanwhile the review of the Postal Services Directive has not gone beyond initial studies.
- **Priority addressed and will continue into 2023**

- **MCA Priority:** Identifying the MCA's and the Sector's contribution to the European Green Deal
- **Progress:** Drafting of a document highlighting the possible contribution of the MCA and the sector towards the Green Deal is under way. The finalisation and subsequent publication of the document is slated for the beginning of 2023, following which further drilling down into possible courses of action will take place throughout 2023.
- **Initial document to be completed by 2022 and further iteration will take place in 2023**

- **MCA Priority:** Setting up the organizational capacity and processes for the DSA, P2B and e-IDAS 2 regulation
- **Progress:** Given the delay in the publication of the DSA at EU level the setting up of the required organisational capacity has been shifted to 2023. The same applies to the transposition of the necessary legal provisions, which are in the course of being finalised in draft form. A requirements analysis on the organisational aspects is under way in the meantime.
- **To be continued in earnest in 2023**

- **MCA Priority:** Consolidating the Broadband Mapping Project.
- **Progress:** Given the cross-Government nature of the envisaged platform, complexities entailed in the coordination in the procurement of the necessary software slowed down implementation but significant progress in project design was registered nonetheless. The procurement process is now under way with the intention of going into implementation mode in 2023.
- **To be continued in 2023**

- **MCA Priority:** Gaining a better understanding of available Physical Infrastructure from information sourced from Electronic Communications Operators as well as other Utilities.
- **Progress:** In the run-up to the drafting of the latest market analysis the Authority garnered a sizeable amount of background information as to the situation relative to passive infrastructure and access arrangements between operators as well as between operators and utilities. The intention is to gradually increment knowledge of infrastructural arrangements on the ground, as the means to inform decisions made by the Authority regarding such matters. Ultimately the information should also serve to facilitate infrastructure deployment, thereby also garnering all-round efficiencies. This is a longer-term gradual knowledge build-up.
- **Priority Addressed for 2022**

All priority activities identified for 2022 showed progress towards a desired outcome. As envisaged, in the case of a number of these, there will be progression through 2023 and, in some cases, beyond. Meanwhile the Authority, as part of its strategic planning exercise has identified a number of new key initiatives that are considered as the top priority areas for the Authority to achieve its objectives.

### **Fresh Strategic Priorities emanating from the 2023 Workplan**

A number of fresh priorities have been identified under the 2023 workplan. These are listed below.

- Issue and award tender for the digitisation of the radio-communication licensing function
- Engage Electronic Communications operators on mobile technology migration towards Voice-Over-LTE (VOLTE) and 5G Standalone (5G SA)
- Raise Stakeholder awareness on Digital services such as accessibility of Public Sector websites and mobile applications to enhance usage
- Finalise a review of the Sustainability of the Postal USO to identify required structural changes
- Engage with CEPT and other relevant stakeholders to secure an active and fruitful contribution to the ITU WRC-23.
- Active participation in EU/international regulatory fora such as BEREC and ERGP and in the delivery of their work programme, including in the drafting of Opinions to the EU Commission.

### **Consolidated list of Priorities emanating 2023**

The consolidated list of priority tasks for 2023 composed of tasks spilling over from 2022 in addition to new identified tasks may be seen below:

- Finalise the analysis of Relevant Markets 1 and 2 and identification of relevant remedies
- Finalise Decision Notice for relevant QoS rules for Electronic Communications Operators and set up monitoring framework.
- Publish a final decision on Operator measures to safeguard network integrity and security and chart implementation process
- Consolidate the Broadband Mapping Project via purchase of the relevant software and its population with relevant data.
- Consolidate EMF oversight initiatives and oversee the implementation of the EMF guidelines.
- Maximise the efficient use of Frequency Spectrum in support of 5G and other applications via review of authorisation processes and licence conditions of relevant spectrum bands.
- Issue and award tender for the digitisation of the radio-communication licensing function.
- Engage Electronic Communications operators on mobile technology migration towards Voice-Over-LTE (VOLTE) and 5G Standalone (5G SA).
- Raise Stakeholder awareness on Digital services such as accessibility of Public Sector websites and mobile applications to enhance usage.
- Enact relevant legal provisions and set up the organizational capacity and processes for the Digital Services Act (DSA), including co-ordination with other public authorities that have a role in the effective implementation of the DSA.
- Finalise a review of the Sustainability of the Postal USO to identify required structural changes.
- Participate in the EU debate relative to the review of Broadband Cost-Reduction Directive and the Postal Services Directive.
- Engage with CEPT and other relevant stakeholders to secure an active and fruitful contribution to the ITU WRC-23.
- Participate in BEREC and ERGP and in the delivery of the respective work programmes including in the drafting of Opinions to the EU Commission.
- Finalise document identifying the potential contribution of the MCA and the communications sector towards the attainment of the European Green Deal targets.

The above tasks are also listed under the individual Strategic Objectives that they address.

## 8 Ensuring Quality and Continuity in Delivery

In order to ensure quality and continuity in the execution of its mandate the MCA focuses on a number of fundamental components, which it reviews in a process of continuous improvement:

### Performance Planning and Review

The MCA is committed to maintaining an efficient and effective strategic and business planning function together with the monitoring of actual performance against set targets. Performance planning cascades from the strategic and business planning tier to individual staff performance planning programmes. All these components are co-ordinated and regularly reviewed and updated in a process of continuous improvement.

The MCA consistently ascertains the validity of its performance by reviewing its activities on an ongoing basis, assessing whether outputs and outcomes are being attained and reviewing its plans accordingly.

### Human Resources

The MCA is committed to ensuring that it retains a knowledge-based organisation that is adequately structured and staffed in order to be able to optimally address its mission and mandate.

Performance-based activity permeates down to the individual level by means of individual performance assessments, which tie into the achievement of organisational goals. Staff performance measurement is a reflection of the organisation's progress in meeting its strategic objectives.

Staff motivation is considered a key element for the success of the MCA's mission. The MCA is committed to maintaining an environment that brings out the best in the people it employs.

The MCA places high value on the ongoing training of staff in both soft and hard skills and is committed to periodically carry out a structured programme across the entire organisation as the basis for its training schedule. Such structured training is over and above the essential 'on the job' knowledge gathering that takes place on an ongoing basis. The latter includes overseas specialized training as well as study visits to and exchanges with fellow National Regulatory Authorities in other EU member states.

Ongoing participation in BEREC and ERGP workgroups has also served its purpose as a highly valued means of investing in expertise. MCA staff members eventually provide a return by contributing as co-drafters on a number of these workgroups. Various MCA representatives are also being nominated and considered as Co-Chairs of these expert workgroups.

The Authority needs to be in a position where it can compete with other economic players to attract and retain the best and brightest in order to be able to carry out its mandate to maximum effect.

## Outsourcing of Expertise

In those instances where it is feasible to do so, the MCA will outsource requirements for services whenever these involve the need for specific expertise that is not available within the Authority. The MCA will also consider outsourcing where the need for such services is short-term, and mainly serves to address a pressing need. The MCA is committed to dedicating the necessary resources towards the management of contractors, with a view to obtaining the best possible value in services received both in terms of contracted outputs as well as via knowledge transfer.

## Organisation

An organisation that operates in a highly dynamic environment needs to have the in-built flexibility to adapt to changing circumstances. The MCA retains such flexibility via a matrix mode of operation that cuts across formal organisational boundaries and brings together staff from various units and disciplines together to work on specific assignments.

As new functions are assumed the MCA will dovetail these with its business in as seamless a manner as possible. The MCA mission, strategic and business objectives, organisation structure, policies and procedures will be updated to reflect the new state of affairs.

## Resources

If it is to function at desired levels and empower its staff members to achieve optimal performance, the MCA will ensure that they are adequately equipped to carry out the task. In this respect this organisation is committed to providing the environment that is most conducive to productivity. It will do this by providing adequate premises and ICT resources as well as other logistical support as required.

The MCA also deems information management as being a fundamental resource to this organisation and will see to setting up new information systems and processes as necessary, as well as maximising the potential of existing ones. The Authority considers keeping staff updated on developments on an ongoing basis as a fundamental component of its information management activity.

Financial autonomy represents another important pillar in the maintenance of the MCA's status as an independent and effective regulator as well as to achieve desired targets in the case of other mandated non-regulatory activities. The MCA will follow principles of good governance, ensuring that it has adequate finances to meet its mandate and that it delivers the best possible service to stakeholders. In so doing this organisation will also ensure that it is fully accountable for its activities and related incomes and expenditures.

The MCA will continue to ensure that financial reporting reflects the activities carried out and the related sources of funding. The Authority will dedicate the necessary resources towards maintaining its accountability framework to the highest standards.

Financial autonomy by itself is not effective in achieving targeted objectives without equal autonomy in personnel recruitment and speed of procurement. Thus, in order to be able to deliver its programme the MCA requires the collaboration and timely input of other institutional players, not only in the area of Finance but also in the case of recruitment and procurement.



Such collaboration and input are to be seen in the context of the Authority's independence, as enshrined in law.

The Authority also considers timely collaboration from other institutional players as a critical input towards successful outcomes, particularly in instances where projects span a number of government bodies. In the same spirit the MCA is committed to providing timely and quality input to institutional players whenever such is reasonably required.

The newly transposed European Electronic Communications Code provides for the strengthening of regulatory independence of National Regulatory Authorities, as a means to enhance performance and results<sup>13</sup>.

The Authority's regulatory activity has a clear multiplier effect on Malta's society and economy. The successful delivery of its programme is therefore key to Malta's success.

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<sup>13</sup> In 2022 BEREC will be conducting a study on the independence of NRAs in all Member States, including Malta, and plans to share the findings with the EU Commission and the other EU institutions.



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