

## PRESS RELEASE / AUGUST 2023

### The MCA launches a consultation on ‘Price Adjustment Clauses in Telecoms Contracts’

*The consultation proposes a set of measures to be adhered to by providers of internet, TV, mobile, and fixed telephony services in order to provide end-users a higher level of protection when subscribing to contracts which contain clauses which enable providers to increase the charges or fees of their service/s by an amount which corresponds to an objective consumer price index compiled by a public institution.*

In the past months, some providers introduced clauses in some of their subscriber contracts’ which enable them to increase any charges or fees of their service/s plans by an amount which corresponds to an objective consumer price index compiled by a public institution. These clauses state that end-users will not be entitled to terminate their contract without incurring the applicable early termination fees when such increase in charges or fees are implemented.

This subject matter was at the centre of a ruling given by the Court of Justice of the European Union ‘CJEU’ in which the CJEU ruled that a change in charges in accordance with changes in an objective consumer price index compiled by a public institution, resulting from the operation of a price adjustment clause contained in the standard terms and conditions for the provision of an internet, TV, mobile or fixed telephony service does not constitute a modification to the contractual conditions which grants the subscriber the right to withdraw from the contract without incurring the applicable early termination fees.

The MCA is concerned that the inclusion of such clauses in telecoms contracts can have a negative impact primarily because they do not give end-users sufficient certainty about what they may be required to pay throughout the duration of the contract of their subscription. To this effect, the MCA has launched a public consultation in which it proposes a set of measures to be adhered to by providers in order to provide end-users a higher level of protection when subscribing to contracts which contain such clauses.

Amongst other measures, the MCA proposes that before concluding a contract with end-users, providers obtain an explicit consent from end-users in the form of a signature indicating that they are aware that the contract includes such clauses. The MCA is also proposing a shorter maximum contract duration period, only in relation to contracts which include such clauses. These are to be no longer than six (6) months.

The consultation period will run until 12.00hrs CET of 29th September 2023. Interested stakeholders and members of the public are invited to submit their feedback to the MCA electronically on [consultations@mca.org.mt](mailto:consultations@mca.org.mt) or by mail at the following address: Malta Communications Authority, Pinto Wharf, Valletta Waterfront, Floriana, FRN1913.