

Consultation on the proposed issue of a Directive on payment of postage and postal identifier

Regulation 43 of the Postal Services (General) Regulations empowers the Malta Communications Authority (the 'Authority') by directive to either require the universal service provider to have in place such schemes in relation to the postal services provided by it as the Authority may consider necessary, or to require the universal service provider to amend any existing schemes that may have been adopted. Before doing so the Authority is required to consult with the universal service provider and any other stakeholders whom the Authority considers to have an interest.

Maltapost plc ('Maltapost') is at present the universal service provider in the postal services sector.

The Authority in the context of a proposed scheme entitled "Posting and Delivery Requirements Scheme" submitted by Maltapost, asked Maltapost to include specific provisions relating to the payment of postage fees and delivery of postal articles which amongst other things require that a postage stamp or mark is fixed, printed, impressed, embossed or otherwise marked on each postal article in any way as Maltapost may approve and which is acceptable to the Authority.

Maltapost accepted various amendments requested by the Authority, but is refusing to include provisions in the aforesaid Scheme whereby a postage stamp or mark is printed, impressed, embossed or otherwise marked on all postal articles delivered by Maltapost so as to demonstrate that payment or arrangement for payment of postage to be paid on each postal article.

The Authority considers that in the interests of the users of the postal services provided by Maltapost and to enable effective monitoring of the market, Maltapost should in all instances ensure that all postal articles it delivers bear some form of postal identifier as is sufficient to identify clearly to the users of Maltapost's services and to the Authority that it is Maltapost which is providing the postal services in question.

The Authority in accordance with the requirements of Regulation 43 is seeking the views of Maltapost and of other stakeholders whom it considers to have an interest in the subject matter being dealt with before issuing the proposed directive referred to below.

Any interested person who wishes to make submissions relevant to this consultation must ensure that his submissions are received by the Authority by not later **than Monday 19th November 2007**. Any such submissions are to be addressed to the Chairman (attn. Paul Edgar Micallef, Chief Legal Adviser)

All submissions shall be made publicly available by the Authority on its website unless the person making any such submissions gives valid reasons acceptable to the Authority as to why such submissions should not be made public.

"Directive No. 3 of 2007

Directive of 2007 on the payment of postage and postal identifier

The Malta Communications Authority after having consulted in accordance with regulation 43 of the Postal Services (General) Regulations and in accordance with its powers under this regulation, and under article 4 of the Malta Communications Authority Act (Cap. 418 of the Laws of Malta) has made the following Directive.

Title and application

1.1 The title of this directive is the Directive of 2007 on the payment of postage and postal identifier.

1.2 The provisions of this Directive shall come into force on the date of its publication on the website of the Malta Communications Authority.

Definitions

2.1 Unless otherwise provided in this directive, the provisions of article 2 of the Postal Services Act (Cap. 254 of the Laws of Malta) and of regulation 2 of the Postal Services (General) Regulations (Legal Notice 328 of 2005) shall apply to this Directive.

2.2. For the purposes of this Directive:

the word "Authority" means the Malta Communications Authority.

the words "the Regulations" unless the context requires otherwise, refer to the "Postal Services (General) Regulations".

Considerations

3.1 Since at least the beginning of this year, Maltapost plc has been delivering a substantial amount of postal articles without any stamp, postal mark indicating payment of postage and, or fees on a postal article, or any other mark indicating that the provision of the postal service is being made by Maltapost plc. Maltapost plc is not contesting that it is factually engaging in such a practice.

3.2 The Authority considers that whilst progress has been registered following the submission to it by Maltapost plc of a proposed scheme entitled "Posting and Delivery Requirements Scheme", Maltapost plc has failed to address the requirement that this Scheme should also include provisions whereby a postage stamp or mark is printed, impressed, embossed or otherwise marked on all postal articles delivered by Maltapost plc to demonstrate payment or arrangement for payment of postage with Maltapost plc. The Authority therefore considers that the provisions of the aforesaid Scheme as proposed should be retained subject to the inclusion of a clear provision which ensures compliance with the above requirement.

3.3 The Authority considers that Maltapost plc as the universal service operator is required to ensure that it has in place an efficient service for the delivery of postal articles and that it is clearly identifiable as the provider of that service. The Authority considers that consequently, in addition to the demonstration of payment, there must be on each postal article delivered by Maltapost plc, a clear indication that unequivocally identifies Maltapost plc as the provider of the postal service in question.

3.4 The Authority firmly believes that the continuance of the present practice by Maltapost plc of not having in all instances a clear indication demonstrating that it is Maltapost plc which is providing the postal service, seriously undermines the effective monitoring by the Authority of compliance by Maltapost plc with its legal obligations in relation to the delivery of postal articles. Moreover such a practice is of detriment to users of the postal services provided by Maltapost plc. The Authority considers that such a practice effectively impairs users who may have cause for complaint about a postal service provided by Maltapost plc, in pursuing their complaints given that users will not in all instances be able to readily establish that it was Maltapost plc which provided the postal service in question.

Directive

4.1 The Authority therefore directs Maltapost plc to have in place within thirty days of the issue of this Directive the following:

4.1.1 an amended version of its proposed Scheme entitled "Posting and Delivery Requirements Scheme", whereby it effectively implements to the satisfaction of the Authority, a provision or provisions that clearly and unequivocally require that a postage stamp or mark is printed, impressed, embossed or otherwise marked on all postal articles delivered by Maltapost plc to demonstrate payment or arrangement of payment of postage with Maltapost plc;

4.1.2 a postal scheme whereby each postal article delivered by Maltapost plc has a name, logo, stamp, postmark or design that is affixed to, impressed or printed on each postal article delivered by Maltapost plc and which clearly indicates the date which Maltapost acknowledged receiving each postal article for processing and any other relevant information, and identifies Maltapost plc as the postal service operator responsible for the delivery of that postal article.

4.2 This Directive is being issued without prejudice to any other measures that the Authority has taken or may take with regard to the subject matter dealt with in this Directive.



Joseph V. Tabone
Chairman

2nd November 2007"