

10th July 2012

Directive No.1 of 2012

**Directive Number 1 of 2012 on the Obligations related to the
administration
of the Unified legal Interception System**

The Malta Communications Authority ('the Authority'), in accordance with its powers given under Article 4 of the Malta Communications Act Cap. 418 of the Laws of Malta, has made the following Directive.

Part I

PURPOSE AND DEFINITIONS

1. The title of this directive is the Directive Number 1 of 2012 on the Obligations related to the Administration of the Unified Legal Interception System under the Electronic Communications (Regulation) Act.

2. The purpose of this Directive is:

- a. to define the obligations related to the administration of the Unified Legal Interception System;
- b. to institute the manner in which contributions towards this system are to be made when necessary as established in this Directive and as provided by Regulation 86 of the Electronic Communications Networks and Services (General) Regulations (S.L. 399.28) in furtherance of Article 47(1)(r) of the Electronic Communications (Regulation) Act (Cap.399); and
- c. to repeal Directive No.2 of 2005: Directive of 2005 on the Modalities of Payment for Contributions to the Cost of Legal Intercept Obligations under the Electronic Communications (Regulation) Act:

Provided that the Authority shall in collecting any amounts in accordance with this Directive, is deemed to be acting for and on behalf of the Security Service ('MSS').

3. In this Directive unless the context otherwise requires:

"the Act" means the Electronic Communications (Regulation) Act (Cap. 399 of the Laws of Malta);

"the Authority" means the Malta Communications Authority;

"contributions" means any amounts due or paid to the Authority acting on behalf of the MSS for the purpose of contributing towards any costs arising from the legal interception obligations;

"Directive No.2 of 2005" means the Directive of 2005 on the Modalities of Payment for Contributions to the Cost of Legal Intercept Obligations under the Electronic Communications (Regulations) Act;

"the Regulations" means the Electronic Communications Networks and Services (General) Regulations, 2011 (SL. 399.28 of the Laws of Malta);

"relevant services" means all publicly available electronic communications services, with the exclusion of television and radio distribution services;

"relevant year" means any year during which contributions are to be paid to the legal interception fund;

"the Security Service" or "MSS" means the Security Service established under the Security Service Act (Cap.391 of the Laws of Malta); and

"undertaking" means a person providing or authorised to provide electronic communications networks and, or services or associated facilities.

Part II

COMING INTO FORCE OF THIS DIRECTIVE NO.1 OF 2012 AND REPEAL OF DIRECTIVE NO.2 OF 2005

4. This Directive shall be deemed to have come into force as from the 1 January 2012.

5. The provisions of Directive Number 2 of 2005 on the Modalities of Payment for Contributions to the Cost of Legal Intercept Obligations under the Electronic Communications (Regulation) Act shall be repealed:

Provided that such Directive shall remain applicable in relation to any outstanding payments and/or obligations under that Directive relating to the period prior to 1 January 2012.

Part III

TECHINICAL AND INTERCEPTION OPERATIONAL REQUIREMENTS

6. The Authority shall define the technical and interception operational requirements necessary to enable legal interception of electronic communications by the competent authorities in accordance with any law allowing and regulating such legal interception.

Part IV

FUNDING OF THE COSTS RELATED TO THE UNIFIED LEGAL INTERCEPTION SYSTEM

7. The Government of Malta shall be responsible for the funding of the Unified Legal Interception Core System and all that it entails, including, but not limited to, any equipment that is owned and/or supplied by the MSS that is installed at the undertaking's premises, and the relevant communication links used by each individual undertaking connecting it to the Security Service.

8. Each undertaking shall be responsible for the funding of its own interface system that connects its own network/s to the Unified Legal Interception Core System, and all it entails, for the purpose of enabling legal interception.

9. Without prejudice to articles 7 and 8 of this Directive, the Government of Malta shall be responsible for any costs incurred in relation to any additional changes and/or upgrades required to the Unified Legal Interception Core System and/or the communication links to the Security Service that are necessitated as a result of an undertaking carrying out any changes and/or upgrades to the undertaking's own network and/or interface system:

Provided that the Authority is notified in writing by the undertaking at least one (1) year prior to the undertaking implementing any changes and/or upgrades to its network and/or interface system.

10. Any intended changes and/or upgrades to the Unified Legal Interception Core System and/or to the communication links used by each undertaking connecting it to the Security Service shall be notified by the MSS to the Authority at least one (1) year in advance. Upon receiving such notification the Authority shall immediately inform each undertaking of the changes which are to take place:

Provided further that it shall be the responsibility of each undertaking to establish if the changes and/or upgrades to be carried out to the Unified Legal Interception Core System and/or to the communication links used by each undertaking, warrant any changes to the undertakings own interface system.