

Please Quote Our Ref: LEG 304

7th December 2010

Mr Andrei Torriani
Chief Executive Officer
Melita plc
Gasan Centre
Mriehel By-pass
Mriehel BKR3000

Dear Mr Torriani,

Re: Letter of Warning - Donation Related Premium Rate Services During the Festive Season

Reference is made to the Authority's letter dated 3rd December 2010, Melita's response received on 7th December 2010, as well as previous related communications sent by the Authority, regarding the subject in caption.

On the 21st October 2010, in line with article 4 of the Malta Communications Authority Act (Cap. 418), the Authority **directed all PATS providers**, including Melita plc (hereinafter 'Melita') to co-operate amongst themselves, and undertake their maximum efforts, **to ascertain interconnection on all donation related Premium Rate Services as an interim solution during the 2010 festive season**. This directive was also verbally communicated by the Authority during a meeting held on the 10th November 2010 at MCA premises regarding Premium Rate Services and which meeting was attended by all major PATS providers including Melita. The Authority also sent another communication by e-mail on the 11th November 2010 to all operators referring to the same directive of the 21st October 2010.

On all occasions the Authority made it clear to all PATS providers that it was prepared to facilitate and intervene as necessary to assist any operator with regard to any difficulty that may be encountered in adhering to the same directive referred to above.

The Authority notes that no objections were made to any of these communications by Melita or any of the other PATS providers. The Authority has issued the directive referred to above (namely that of 21st October 2010) in order to protect the interests of all impacted stakeholders and to enable both terminating operators and originating operators to reach the relative agreements between themselves.

In its letter dated 3rd December 2010, the Authority had specifically drawn Melita's attention to reported issues concerning Melita's interconnection with a donation campaign being organised by RTK for '*Id-Dar tal-Providenza*', as well as a donation number to be used by *Partit Laburista* (PL).

In the response received by the Authority on 7th December 2010, Melita held that as the smaller operator in the telephony market, the company had difficulties in participating in the market for Premium Rate Services and was surprised by the Authority's letter referred to above. In relation to Melita's comment that the sector was and is to date unregulated, the Authority points out that the reason for issuing its directive on 21st October 2010 was precisely **to determine the Premium Rate Service interconnection obligations on each operator until the new framework regulating Premium Rate Services is implemented.** The Authority is pleased to note that finally Melita has confirmed in its letter that it will be participating in the donation campaign being organised by RTK for 'Id-Dar tal-Providenza' together with other philanthropic events using voice services.

Nonetheless, the Authority notes that interconnection with a voice donation number to be used by *Partit Laburista* (PL), **has not been confirmed by Melita**, notwithstanding that this activity was notified to Melita by the hosting terminating operator before the deadline established by the Authority. Accordingly, the Authority has no alternative but to refer to its letter of the 3rd December 2010 (referred to above), whereby consequential to the requirements in that letter, it results that *prima facie* Melita has failed to take all appropriate measures to demonstrate that it is abiding with the Authority's directive of the 21st October 2010, referred to in the same letter and in other communications emanating from the Authority on the subject. In the light of these circumstances the Authority is taking the necessary regulatory steps.

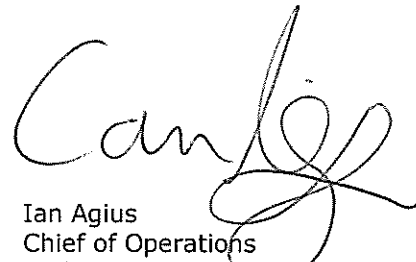
In view of the above, the Authority, in accordance with its powers under Articles 32 and 33 of the Malta Communications Authority Act is warning Melita that a **fixed Administrative Fine of €7,500** may be imposed unless it adheres to the directive of the 21st October 2010, as communicated in the Authority's communication dated 3rd December 2010 whereby operators were required to ascertain interconnection to all donation related Premium Rate Services, by Thursday 9th December 2010. The Authority shall impose such a fine unless valid reasons at law to the contrary are given. Before deciding whether to impose the above mentioned Administrative Fine, Melita is requested to make its submissions as to why such a fine should not be imposed.

If the Authority considers that if **by noon of Friday the 7th January 2011 Melita** fails to give any valid reasons at law demonstrating why the above mentioned Administrative Fine should not be imposed, the Authority will then impose the above mentioned fine, this without prejudice to any other regulatory measures that the Authority may consider to be appropriate in the circumstances.

Yours,



Paul Edgar Micallef
Chief Legal Adviser
Malta Communications Authority



Ian Agius
Chief of Operations
Malta Communications Authority

Cc:

1. Ing. Philip Micallef - Chairman, MCA
2. Mr Claude Azzopardi - Manager - Market Operations, MCA