

## Minutes

### Present:

Fabian Grima, Marisa Azzopardi, Stefan Briffa (GO)

Gertrude Borg Micallef, Stephanie Zarb (Melita)

Rachel Desira, Melanie Borg (Vodafone)

Ian Deguara, David Cauchi (Office of the Information and Data Protection Commissioner (OIDPC))

Celia Falzon, Ivan Bugeja, Katya Scicluna Bartoli, Patricia Calleja, Helga Pizzuto, Adrian Galea, Glenn Fenech (MCA)

It was decided to begin the meeting with the item on Data Protection, in view of the fact that the OIDPC members were already present at the start of the meeting. The remainder of the agenda items followed according to order.

### Overview of the Proposed General Data Protection Regulation

Ian Deguara and David Cauchi from the OIDPC gave a general overview on the proposed (Directive 95/46/EC (1995) reform of the EU's 1995 data protection rules, which aims to strengthen online privacy rights and boost Europe's digital economy. With the main legal act being a Directive, the current Data Protection Framework allows for divergences in the way personal data protection is implemented across the EU, resulting in divergences in enforcement. Moreover, rapid technological progress and globalization have changed the way personal data is collected, accessed and used, while individuals are increasingly making personal information available publicly and globally. All these, together with the rapid increase in data sharing, have increased challenges to privacy. It is hoped that the proposed Regulation will do away with the current fragmentation and help to reinforce consumer confidence in online services.

A number of consultations, workshops, conferences and meetings were held and studies carried out, in preparation for this proposal. Opinions and input from the European Data Protection Supervisor and the Article 29 Working Party were also sought and taken into consideration. The proposed Regulation was published in January 2012. Its aim of strengthen online privacy rights, simplify and reduce administrative burdens, boost the Digital Agenda objectives and ensure a harmonised environment across the EU. The main proposals included in the draft Regulation are:

- definitions including, genetic data, biometric data, main establishment, data concerning health, binding corporate rules, child (below 18 years of age);

- new principles to compliment those contained in the current directive including transparency principle, data minimisation principle and comprehensive responsibility and liability of the data controller;
- controller to provide procedures and mechanisms for exercising the data subject's rights;
- right to be forgotten – a data controller who has made personal data public will be obliged to inform third parties on the data subject's request to erase any links or copy of replicate of such data;
- right to data portability;
- Right to object and profiling;
- Data protection by design and default;
- Joint controllership;
- Documentation concerning processing operations (contained in the present notification form);
- to be maintained by the data controller or his representative;
- personal data breach notification;
- data protection impact assessment;
- mandatory appointment of a data protection officer for controllers in the public sector and for private entities employing more than 250 employees;
- transfers by way of appropriate safeguards and by way of Binding Corporate Rules;

The proposed Regulation also provides for hefty administrative sanctions and the adoption of implementing acts by the Commission. A transition period of two years for the implementation of the provisions after entry into force of the Regulation is also being proposed.

The Commission meanwhile aims to obtain a political agreement on the proposed Regulation by summer of 2013, however no official date has been established for the possible adoption of the proposal.

### **Introduction and Developments since last forum**

Celia Falzon (MCA) gave a brief introduction of the MCA's activities in the second quarter of 2012.

The MCA was asked to check whether the complaints have been published on the website and are up to date.

N.B. The MCA has meanwhile verified that, after validation by the operators, the complaints up to end 2011 will be uploaded on the MCA's website in short order.

### **Developments at EU level (March – June 2012)**

Ivan Bugeja (MCA) gave an update of the main EU developments over the last three months.

## **Outcome of Focus Groups – the general experience of consumers in telecoms**

Glenn Fenech (MCA) gave a presentation on the research findings of the Focus Groups on consumer experience in telecoms.

The specific research objectives of this qualitative study via a series of Focus Group sessions were to:

- Analyse separately the four electronic communication services offered in Malta for quality levels and consumer experience;
- Identify consumer satisfaction levels with the services provided by the main electronic communication operators in Malta;
- Identify any shortcomings and problems generally encountered by the consumers with regards to the services offered by operators;
- Establish whether these problems can be solved via ex-ante regulatory intervention;
- Complement other MCA surveys and studies to be factored into our ongoing analysis.

If major areas of concern were to be identified, this study would be followed by a quantitative survey on a national scale.

All in all, no major or serious issues have emerged from this qualitative analysis. Most areas for improvement are either already being addressed, or are outside the scope of the MCA's regulatory remit. Overall, people are satisfied with the services they get and complaints have more of an individual dimension. In terms of the general pricing levels, most participants were overall satisfied, with the exception of TV, where many argued that they were not receiving good value for money – (in comparison to satellite).

Originally, this study was to be followed up by a full blown quantitative survey to assess the issues arising from these focus groups on a national scale. This quantitative survey, however, is likely to produce the same results found in the consumer perception surveys. Moreover, since there are no major areas of concern that need to be analysed, the MCA believes that the survey would be futile and thus, decided not to pursue this any further.

## **Changes to National Frequency Plan**

Adrian Galea (MCA) updated the meeting on changes carried out to the National Frequency Plan. The amendments were necessary to accommodate provisions in the EU Commission's Decision on Short Range Devices, which member states were obliged to implement within a six-month time frame. In addition, the revised Plan has also allocated some spectrum in the 450kHz band to the radio amateur service on a secondary basis and to digital low power private mobile radio (digital PMR 446) applications.

Information was also provided on the General Authorisations (Radiocommunications Apparatus) Regulations (S.L.399.40). The MCA highlighted the requirements which are put on operators through these Regulations, primarily on the notification process prior and following an installation of for example, a mobile phone base station. The MCA also highlighted the technical limitations which are applicable to wireless access networks such as Wi-Fi (2<sup>nd</sup> Schedule), and provided an overview on the technical Schedules dealing with mobile communications services on aircraft and on vessels.

The MCA also informed that these Regulations were amended in May 2012 to reflect the changes in the National Frequency Plan.

## Highlights on Radio Spectrum

Helga Pizzuto (MCA) informed the meeting of the outcome of the recent RSPG meeting held in early June.

### ***700 MHz band***

The 700 MHz band, which is presently being used for broadcasting, has been identified as a possible band for mobile services. Studies and discussions are taking place to see what technological options exist to increase efficiency. Italy has legislation in place so that equipment is DVB2 standard. If this materializes, the clearing of 700 MHz band for Malta will be a complex issue.

### ***EU assistance in bilateral coordination***

Following the Opinion approved in February on the issue of cross border coordination that foresees the tool of the RSPG “good offices” as an aid to Member States for solving potential problems, member states may now bring their issues to RSPG. The meeting was informed that Malta has requested a derogation with regard to the 800 MHz band.

### ***Review of strategic sectoral demand***

In line with the provisions in the RSPG, RSPG intends to examine the likely development of a number of sectoral categories of service, in order to identify emerging spectrum needs and demand and, at the same time, to explore the possibility to foster generic spectrum allocation, including for broadband services, in order to avoid standalone sector specific solutions.

A study is currently taking place to see what systems are in place across Europe. It was suggested using studies and projects from other parties and groups (including ETSI) on these subject to avoid overlap.

### ***Interference Management***

One of the key issues of the Administrations is efficient interference management, in order to ensure that the available radio spectrum, with its limited resources, can be used and exploited as extensively and efficiently as possible.

The work of the RSPG offered the chance to exchange best practices and examples of interference in their countries. In particular, the work on receivers was felt to be important, with reference being made to LTE in the 800 MHz band (where currently, many problems exist) and its effect on broadcasting receivers.

### ***Increasing opportunities for shared use of spectrum***

The Commission informed about a planned Communication on the shared use of spectrum (scheduled for July), which will, inter alia, address Licensed Shared Access (LSA) and related access rights.

Start of the work on this topic has been delayed in order to take on board further comments of the Member States in the formulation of the request for opinion and to synchronise it with the publication of the Commission Communication.

### **AOB**

Lists of current, and planned, consultations for Q3/2012 were distributed during the meeting. Members queried two items on the 'Current' list and these were clarified as follows:

<b>Title</b>	<b>Consultation closing date</b>	<b>Target date for decision</b>
ENISA Technical Guidelines for Minimum Security Measures	31 OCT 11	Q3 2012 (Adoption of Guidelines <b>by ENISA</b> )
Wholesale leased lines market review (Market 6) *	21 SEP 12	Q4 2012

\*This market is expected to be published for consultation by end July.

The next Electronic Communications Forum will take place on

**Friday, 5th October, 2012 at 09.30 hrs.**