

## **Universal Telecommunication Services Consultative Paper**

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**March 2002**

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## **DEFINITIONS**

### **Directory Enquiry Service (DQ)**

Directory information service which is operator assisted and involves the operator looking up entries on a database.

### **Emergency Organisations**

The providers of the ambulance, the police and the fire service and in the case of Remote Care Services, includes the providers of specially supervisory or other care to elderly or otherwise vulnerable or disadvantaged users.

### **Emergency Services**

Telecommunications Services which enable a user of telecommunication services to obtain an immediate connection to Emergency Organisations by dialling the following numbers: 112, 191, 196 and 199 or any such numbers which the MCA may determine from time to time.

### **Maritime Communications Services**

The telecommunications services and the infrastructure necessary to enable telecommunications services between ships and those maritime coastal stations established in Malta from time to time.

### **Remote Care Services**

The telecommunications services provided to those users who are elderly or otherwise vulnerable or disadvantaged, which are established to provide continuous access to emergency services.

### **Universal Service**

The basic level of telecommunications services which should be available to all customers.

## 1 INTRODUCTION

The Malta Communications Authority (MCA) is responsible for the regulation of the Maltese telecommunications industry in accordance with national legislation. One of the MCA's functions is to determine which operator or operators should be designated as the provider of Universal Service in the telecommunications market.

The objective for Universal Service is to ensure that those telecommunications services, which are essential to social and economic interaction, are made available to everybody upon reasonable request in an appropriate fashion and at an affordable price. This ensures that people on low incomes, in rural areas, with disabilities and other vulnerable groups have access to telephony services as set out in the Telecommunications Services (General) Regulations.

The Telecommunications Services (General) Regulations define Universal Services as the minimum set of services for meeting quality of service requirements that are available to all users including those in high cost areas or vulnerable groups such as the elderly, the disabled or people with special social needs, independent of their geographic location, at an affordable price and within a reasonable time.

The MCA recognises the need to discuss the subject in question and recognises the importance of consultation and input from all interested parties. The purpose of this document is to obtain the views of all interested parties on the proposed methodology and approach to the determination of Universal Service Obligations.

*This consultative paper is not a legal document and is being published without prejudice to the legal position or the rights and duties of the MCA to regulate the market generally.*

## **2 LEGISLATIVE BACKGROUND**

### **2.1 Telecommunications (Regulation) Act**

Section 4(1) of the Telecommunications (Regulation) Act provides that it shall be the duty of the MCA to exercise the functions assigned to it under the same Act in a manner which it considers to be conducive to:

- a. the regulation of the telecommunications sector on the basis of the fundamental principles of the Act including the separation of regulatory and operational functions, fair competition, transparency, non-discrimination, open networks, consumer protection, universal service, public service values and respect for fundamental human rights;
- b. secure that there are provided in Malta, save in so far as the provision thereof is impracticable, such telecommunications services as satisfy all reasonable demands for them including in particular emergency services, public call services, directory information services, and maritime services; and

The Minister acting under the powers conferred to him by Section 38(1) of the Telecommunications (Regulation) Act, made provisions regarding Universal Service Obligations in the Telecommunications Services (General) Regulations.

These Regulations authorise the MCA to designate the services, which are to be provided as universal service obligations, and to require any one or more authorised providers to provide such services.

The Authority shall have power to issue directives designating the universal service obligations and requiring any one or more authorised providers to provide such services and to make provisions for a funding mechanism if this is deemed necessary and appropriate.

### **2.2 Telecommunications Services (General) Regulations – Legal Notice 151 of 2000**

Regulation 38(1) of the Telecommunications Services (General) Regulations provides that the MCA may designate an operator with a dominant market position to be the provider of universal services as defined by the MCA.

The Regulations oblige operators designated as universal service providers to supply the basic services described below to any person including users in high cost areas or vulnerable groups such as the elderly, the disabled or people with special social needs. This is to be provided on the usual terms and conditions, within a reasonable period of time and at an affordable charge (if any) as authorised by the MCA.

### **2.2.1 Services Supported**

The Telecommunications Services (General) Regulations define the basic set of services that a designated fixed network operator is obliged to provide to include as a minimum the provision of:

- voice telephony via a fixed connection which will also allow fax and a modem to operate;
- operator assistance;
- emergency services;
- directory enquiry services (including subscriber directories); and
- public payphones.

On the other hand, a mobile operator designated with a universal service obligation, shall provide handsets that can be used by people with hearing difficulties.

In addition, the Legal Notice sets out special services that has to be provided under a universal service obligation as:

- i. services for people with visual impairment; and
- ii. services for people who are deaf or hard of hearing;

The Regulations also authorise the MCA to define other universal services, as it deems appropriate.

### **2.2.2 Tariff control**

Telephone services by a dominant operator (who will also be the universal service provider) is subject to price control by the MCA, who may choose also to introduce a price cap. The Regulations give further guidance to the MCA on the necessary considerations to be given when deciding on service tariffs:

Regulation 40(5)

*In authorising charges for services provided under a universal service obligation, the Regulator shall balance the principle of affordability with the cost-orientation requirement and the need to re-balance tariffs for a competitive market environment.*

### **2.2.3 Universal Service Contribution Mechanism**

The MCA may establish a universal service contribution mechanism, which shall be calculated by the MCA, taking into account the costs, net of attributable revenues, of serving customers with a basic service who otherwise would not be served. Other benefits received by the operator from the provision of the service such as brand recognition and market position shall also be accounted for.

The MCA shall determine operators' contributions towards universal services with regard to factors such as:

- the relative size of the operator's business;
- the relative capacity of the operator to comply with universal service conditions;
- financial stability; and
- the likely net cost of the operator of complying with any or all conditions of universal service obligation.

The Telecommunications Services (General) Regulations provides that if required, universal service obligation contributions will be collected either through a fund established for the purpose, a supplementary charge added to charges for call terminations, or through a supplement charge to customers based on their number of main telephone lines.

## **2.3 Relevant EU legislation on Universal Services**

This section summarises the provisions of the relevant EU directives, which the MCA aspires to transpose irrespective of Malta's accession to the EU. These directives provide a regulatory framework, which is suitable within the context of the present local scenario. One may easily note that a substantial part of these directives are already incorporated within our legislative framework.

Universal service is defined in general terms within Community legislation as a minimum set of services of specified quality which is available to all users independent of their geographical location and, in the light of specific national circumstances, at an affordable price.

Under present legislation, the precise elements to be included in this universal telephone service are contained in the Voice Telephony Directive<sup>1</sup>. In addition, the Interconnection Directive<sup>2</sup> provides the framework for the costing and financing of universal service. Universal Services may equate to:

- the provision of the public fixed telephone network, supporting voice telephony, group III fax and voice band data transmission via modems;
- the provision of fixed public telephone service i.e. provision to end-users at a fixed location of international and national calls, access to emergency services;
- the provision of operator assistance and directory services;
- the provision of public pay phones; and
- the provision of service under special terms and/or the provision of special facilities for customers with disabilities or with special social needs.

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<sup>1</sup> v  
<sup>2</sup> 2

## **3 THE NATURE OF UNIVERSAL SERVICES OBLIGATION**

### **3.1 Overview**

There are four elements of universal service defined in the Telecommunications Services (General) Regulations. Briefly, these are:

- Access to the fixed network and services,
- Directory Services and operator assistance;
- Emergency Services; and
- Provision of Public Pay Telephones
- Provision of special services.

The MCA is required to designate an operator or operators, as the case may be, to provide each of these services throughout the country. The operator designated to provide network access must be a fixed operator. Other appropriate operators may be designated in the case of the other services.

The fixed operator designated by the MCA is required to maintain affordable services for users, in particular those in rural and high cost areas and vulnerable groups of users, such as the elderly, those with disabilities, and those with special needs.

### **3.2 The Nature of the Services**

#### **3.2.1 Connection to the Fixed Public Telephone Network and Access to the Fixed Public Telephone Service**

A fixed operator designated as having a universal service obligation (USO) shall ensure that all reasonable requests for connection to the fixed public telephone network at a fixed location and access to fixed public telephone services are met. The MCA may issue directions to a designated fixed operator in relation to the reasonableness of requests for connection to the network and access to services covered by the designation, and the terms under which connection and access may be provided. Such directions may also require the operator to provide access where a refusal would be unreasonable. Where a request for connection or access is turned down, this can be referred to the MCA.

A connection to the public fixed telephone network must be capable of allowing users to make and receive national and international calls, enabling voice, facsimile and data communications. Such a connection must be capable of transmitting data via modems at a speed sufficient to permit Internet access.

### **3.2.2 Provision of Directory Services**

An operator or operators as the case may be, designated as having a USO for the provision of directory services must, *inter alia*,

- ensure that one or more subscriber directories, setting out all subscribers of public telecommunications networks, including those with fixed, mobile and personal numbers, and who have not refused to be included in such directories, are available to users of any such networks in a form approved of by the MCA, whether printed or electronic, or both, and are updated at least once a year,
- keep a record of all subscribers in the country, including those with fixed, mobile and personal numbers, and who have not refused to be included in that record, and allow access to any information contained in such record to any person requesting such information.

### **3.2.3 Access to Emergency Services**

The Telecommunications Services (General) Regulations oblige operators to provide every user connected to their network access to emergency services at no charge using the number “112”. This number shall also be accessed without having to use coin or cards from payphones. The Regulations provide that the emergency numbers “191”, “196” and “199” in addition to “112” are to be provided up till 31 December 2004.

Emergency Services include as well Remote Care Services, that is, telecommunications services provided to those subscribers who are elderly or otherwise vulnerable or disadvantaged, and which are established to provide continuous access to emergency services.

### **3.2.4 Provision of Public Pay Telephones**

A fixed operator designated as having a USO must provide public pay telephones in sufficient numbers to satisfy all reasonable needs for such services. Then the MCA, following consultation, may issue directions on the number of public pay phones required.

### **3.2.5 Provision of Maritime Communications Services**

The MCA is of the opinion that the operation of a maritime VHF service from the Maltese Islands is important to the coastal shipping and fishing industry. Therefore, Maritime Communications Services shall be considered a Universal Service.

### **3.2.6 Special Measures for Disabled Users and People with Special Needs**

The Telecommunications Services (General) Regulations provides for special services to be provided to disabled users and people with special needs. In the opinion of the MCA such services should include the accessibility of public telephones, the provision of text telephones, special terminals or equivalent services for deaf, hard of hearing or speech impaired people, the provision of services such as directory enquiry services or equivalent measures for blind or partially sighted people. Specific measures may also need to be taken to enable disabled users and users with special social needs to access emergency services.

## **4 DESIGNATIONS**

### **4.1 Overview**

The elements of universal service for which a designation is required are set out in section 3.1. In making the designation, the MCA is required to take into account the ability of a designated operator to satisfy all or part of the universal service obligation.

### **4.2 Individual Designations**

#### **4.2.1 Connection to the Fixed Public Telephone Network and Access to the Fixed Public Telephone Services**

Maltacom plc enjoys a monopoly on fixed telephony services until 31 December 2002. It therefore retains the entire share of the fixed telephony services network. It is also true that, as the incumbent telecommunications provider, Maltacom has a nationwide fixed telecommunications infrastructure capable of providing all reasonably requested connections. Furthermore, Maltacom has considerable experience in providing universal service in respect of connection to the fixed public telephone network and access to the fixed public telephone service.

The MCA therefore designates Maltacom as the organisation having the obligation to ensure that any request, in so far as the fixed operator considers it reasonable, by a person for connection to the fixed public telephone network at a fixed location and access to fixed public telephone services, is met.

#### **4.2.2 Provision of Directory Information**

Regulation 29 of the Telecommunications Services (General) Regulations states that operators must provide upon request a directory information service to all their subscribers. This service may consist of the provision of a printed directory or a database that includes all the names of the operator's customers. Each subscriber has the right to have an entry in publicly available directories, to verify and if necessary correct it, and to request removal of the said entry.

Furthermore, the regulations provide that a directory information service shall include a service where the directory information is available in an appropriate form that meets the needs of persons who are blind or otherwise disabled as to be unable to use the publicly available telephone directory.<sup>3</sup>

Directory services, unlike ownership and operation of fixed networks, is an area where there are potentially lower hurdles to market entry and where competition

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<sup>3</sup> 151 29(6)

has therefore the potential to develop more quickly. There are two elements to the provision of directory information:

- The provision of directory services (directory enquiry services, compilation of and access to directory information), and
- The provision of comprehensive directories in printed or electronic form.

#### **4.2.2.1 Access to Directory Services**

The MCA recognises the importance of access to directory services and has made provision in the licensing regime that was introduced in 2000, to ensure such access is enabled. The Telecommunications Services (General) Regulations require all operators to (subject to data protection laws):

- ensure that customers have access to directory information services,
- maintain a complete and accurate database of their customers' numbers, and
- make the information available to and co-operate with other service providers in the provision of directory information.

These requirements enable the provision of comprehensive directory services to end-users. Therefore, all operators providing telephony services have the obligation to keep a record of all subscribers in the country, including those with fixed, mobile and personal numbers, who have not refused to be included in that record, and allow access to any information contained in such records and meet any reasonable request for such information.

Furthermore, all operators providing telephony services must make available to end-users who are connected to their telecommunications network with a directory enquiry service. The directory enquiry service must contain information on all subscribers in Malta who have requested a listing from their provider of telephone services.

#### **4.2.2.2 Public Directories**

The second aspect of this element of universal service is the provision of directories, in electronic or printed form containing all relevant subscriber numbers, both mobile and fixed. The provision of directories is a service where the hurdles to market entry may be low. In fact a number of directory services are currently available in addition to the national directory provided by Maltacom.

The MCA is of the opinion that Maltacom plc, in line with its 100% market share in fixed line telephony services and network market, has by far the largest allocation of numbers from the national numbering plan therefore has available to it the largest directory data-base in Malta.

Accordingly, Maltacom is best placed to fulfil this obligation at this time, that is, it has in its possession the bulk of relevant directory information and it has experience in the provision of such directories. The Regulations also provide the means of obtaining the information from other operators, that is, all operators must, on request, provide the designated operator with the information required by it to fulfil its obligations.

The MCA is of the opinion that Maltacom should be designated as the organisation that has the obligation to ensure that one or more subscriber directories setting out all subscribers of public telephone networks, including those with fixed and mobile, and who have not refused to be included in such directories, are available to users of any such networks in a form approved of by the MCA, whether printed or electronic, or both, and are updated at least once a year.

#### **4.2.3 Access to Emergency Services**

All operators providing telephony services must make available to end-users who are connected to their telecommunications network free access to emergency services.

Furthermore, the MCA is of the opinion that Maltacom should be designated as the organisation having to ensure that any request for Remote Care Services, that is, the telecommunications services provided to those subscribers who are elderly or otherwise vulnerable or disadvantaged, which are established to provide continuous access to emergency services, is met.

The MCA also proposes mobile operator(s) having a DMP as the organisation(s) having to ensure that any request for the provision of handsets that can be used by people with hearing difficulties is met.

#### **4.2.4 Provision of Public Pay Telephones**

The considerations in section 4.2.1 in relation to the ubiquity of Maltacom's fixed telephone network are relevant in the context of the provision of public pay telephones. As with the obligation to meet request for access to the fixed network, the ability to provide public pay telephones throughout the country is dependent on that ubiquity. For the same reasons therefore, Maltacom is best placed to be able to provide public pay telephones throughout the country, in sufficient numbers to satisfy all reasonable needs for such services throughout Malta. These public pay telephones must be made accessible to disabled users and people with special needs.

#### **4.2.5 Provision of Maritime Communications Services**

Maltacom plc should also be the organisation that has the obligation to provide maritime communication services and the apparatus necessary to enable telecommunications between ships and those maritime coastal stations established in Malta from time to time. This service is crucial to maritime activity and can be life saving in certain circumstances.

#### **4.2.6 Special Measures for Disabled Users and People with Special Needs**

The MCA designates Maltacom as the organisation having the obligation to provide special terminals, including text telephones, amplified telephone sets, and large button telephone sets, for subscribers with physical impairments.

The MCA also proposes mobile operator(s) having a DMP as the organisation(s) having to ensure that any request for the provision of handsets that can be used by people with hearing difficulties is met.

## **5 COSTS OF UNIVERSAL SERVICE OBLIGATION**

The calculation of the net cost of USO's shall be audited by the MCA or another competent body being an independent party from the telecommunications organization, and approved by the MCA. The results of the cost calculation and the conclusions of the audit shall be open to public scrutiny.

The MCA shall ensure that up-to-date specific information is made available on request to interested parties, free of charge, during normal working hours. Reference shall be made in the national Government Gazette to the times and location(s) at which the information is available.

### **5.1 Calculating The Cost Of Universal Service Obligations**

The cost of USO's shall be calculated as the difference between the net cost for an organisation operating with the USO's and operating without the USO's.

The calculation shall be based upon the costs attributable to:

- i. elements of the identified services which can only be provided at a loss or provided under cost conditions falling outside normal commercial standards,
- ii. specific end-users or groups of end-users who, taking into account the cost of providing the specified network and service and the revenue generated, can only be served at a loss or under cost conditions falling outside normal commercial standards.

Net costs means the cost of providing the service to a customer less the revenue generated by that customer including rental, call charges, and revenue generated by incoming calls to that customer. In calculating net cost an operator shall also take into account other benefits received by the operator from providing the said services such as enhanced brand recognition, ubiquitous operation, marketing benefit of accessing the full range of telephone usage data and market positioning.

In general terms, the net cost of providing USO's in a given financial year consists of:

|   |   |
|---|---|
|   | Cost of service delivery avoidable if there were no universal service |
| - | Revenues directly or indirectly attributable to these services        |
| = | Direct net cost   |
| - | Value of any indirect benefits that flow from being a USO provider    |
| = | Overall net cost  |

The calculation of the net cost of individual designated USO's shall be made separately.

## **5.2 Application for Costs**

Designated USO providers may submit to the MCA a written request for funding, for the net cost of meeting these obligations in respect of the periods starting 1 September 2000 up to 31 December 2000, and 1 January 2001 up to 31 December 2001.

From the date of this designation, operators designated with USO's may submit to the MCA a written request for funding for the net cost of meeting this obligation in respect of the year commencing 1 January 2002 up till 31 December 2002 and subsequent annual periods. These submissions should be in line with the principles outlined above and must be submitted not more than 90 days after receipt of written notice of the respective designation. Should a request for funding be received, the MCA will assess whether the universal service obligation in fact represents a net cost to the designated organisation, and will determine whether the net cost represents an unfair burden on such organisation.

## **5.3 Funding Options**

If, following the process outlined above, the MCA makes a determination that the USO represents a net cost on the designated organisation, and where in the opinion of the MCA the net cost represents an unfair burden, the MCA may establish a mechanism for sharing the net cost of universal service.

The funding for Universal Service Obligations can be carried out by:

1. the setting up of a fund based on retail revenues established for the purpose,
2. a supplementary charge added to charges for call terminations, or
3. a supplementary charge to customers based on their number of main telephone lines.

The MCA is of the opinion that option one is the ideal method for financing USO costs. The USO fund shall be administered by the MCA and contributions to the said fund will be made by all operators authorised to provide public fixed and mobile telephony services. The contribution base of each operator to the fund shall be calculated as follows:

*Gross revenues of operator, before taxes, from:*

- Fixed voice telephony services
- Mobile voice telephony services
- Interconnection services
- Access and line rental fees
- Wholesale services
- Leased line services

+ *Internal revenues from providing wholesale and leased line services (or the corresponding internal network services) within the company to downstream business areas that provide value-added services, data communication services, corporate networking etc. (provided that the revenues are not already included in the first item)*

- *Expenditure exclusive of taxes, for:*

- Wholesale services
- Interconnection services (exclusive of international traffic)
- Leased line services

- *Net revenues from uneconomic areas/customer/public call boxes exclusive of taxes, if regulatory constraints prevented the USO provider from passing on contributions to those customers (deduction for USO provider only)*

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**= Base for assessing operator's contribution into USF**

The resulting base of each operator will be expressed as a percentage of the total contribution base of all operators for the period, which percentage will be multiplied by the net cost to the designated operator(s) for providing the designated Universal Services as calculated in accordance with the provisions of this document.

All operators required to contribute to the USF shall ensure that all the necessary information and documentation is disclosed to the MCA with relevant costings subject to auditor's certification.

## **6 CONCLUSION**

Whilst there is no specified duration of the designation, the MCA shall have discretion to review and amend any or all of the elements of the designation. For this reason, the MCA would welcome views and comments from respondents on the willingness of organisations to provide such services and the ability of those organisations to provide a truly comprehensive and universal service. In light of the views received, the MCA may amend the eventual designation.

### **6.1 Designations**

The following are the proposed USO designations:

Maltacom plc is designated by the MCA in accordance with the Regulations as having the obligation to:

- ensure that any request, in so far as it is considered reasonable, by a person for connection to the fixed public telephone network at a fixed location and access to fixed public telephone services, is met,
- ensure that one or more subscriber directories, setting out all subscribers of public telecommunications networks, including those with fixed, mobile and personal numbers, and who have not refused to be included in such directories, are available to users of any such networks in a form approved of by the MCA, whether printed or electronic, or both, and are updated at least once in each year, and
- provide public pay telephones in sufficient numbers to satisfy all reasonable needs for such services throughout Malta.
- ensure that any request for Remote Care Services is met.
- to provide maritime communication services and the apparatus necessary to enable telecommunications between ships and those maritime coastal stations

Mobile operator(s) having a DMP is/are designated by the MCA in accordance with the Regulations as having the obligation to:

- ensure that any request for the provision of handsets that can be used by people with hearing difficulties is met.

All operators shall:

- keep an updated record of all subscribers in the country, including those with fixed and mobile numbers, and who have not refused to be included in that record, and allow access to any information contained in such record to any person requesting such information,
- make available to end-users who are connected to their telecommunications network with a directory enquiry service. The directory enquiry service must contain information on all subscribers in Malta who have requested to be listed.
- make available to end-users who are connected to their telecommunications network free access to emergency services.

## **7 CONSULTATION FRAMEWORK**

The MCA wishes to invite comments from interested parties in relation to any of the issues raised in this document.

### **7.1 Consultation Period**

The consultation period will run until 12:00pm of Friday 24 May 2002. Comments should be sent to:

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Written comments will be made publicly available at the MCA unless confidential. Respondents are therefore asked to separate out any confidential material into a clearly marked annex. Respondents are also kindly requested to refer their comments to the specific sections of this document.

### **7.2 Finalisation of the Authority’s Position**

The MCA will consider comments received in response to this consultative document before publishing a final decision notice concerning Universal Service Obligations.