[MT] Public Consultation on the Regulation of Broadcasting Content on Certain Electronic Communications Networks

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The Broadcasting Authority (BA) and the Malta Communications Authority (MCA) have issued a joint consultation document on the making of a set of regulations entitled “Broadcast Distribution Services Regulations” and on amendments to the “Cable Systems (General) Regulations, 2001”. The purpose of this public consultation exercise is to seek input from stakeholders on both sets of draft regulations. These legislative changes complement each other and aim to establish in clear terms the role of the Broadcasting Authority as the competent authority responsible for regulating content carried on an electronic communications network. Hence, the Broadcast Distribution Services Regulations will empower the BA to license and monitor programming content in so far as electronic communications networks are concerned, whereas the “Cable Systems (General) (Amendment) Regulations” will do away with most of the current provisions relating to content and broadcasting matters which are regulated by the MCA.

The “Cable Systems (General) Regulations” were made in 2001 to regulate the provision of cable networks and services at a time when the cable market was still not fully liberalised. Key elements of these Regulations, as originally phrased, included powers to licence content transmitted by cable network operators under the Broadcasting Act, content related provisions and must-carry obligations. In 2004, these Regulations were substantially amended in line with the requirements of the European Union’s (then) new Electronic Communications Framework. However, the regulations could not then be repealed completely, as there were a number of provisions relating to content regulation and other regulatory matters relating to market analysis and regulatory remedies which were still applicable. The proposed Broadcast Regulations and the Cable Systems Amendment Regulations are intended to enable the Broadcasting Authority to license programming content where such content is carried over an electronic communications networks, whilst doing away with other provisions relating to regulatory matters which relate to former retail obligations. The totality of such regulations will serve to have one comprehensive broadcast content regime applicable to all players enforced by one public authority, namely the Broadcasting Authority.

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In terms of the proposed “Broadcasting Distribution Services Regulations, 2009”, electronic communications networks will have to apply to the BA for a programming content licence and BA will monitor such programming in so far as these licenses are concerned. The regulations are proposed to come into effect on 1 January 2010 together with the entry into force of articles 19 and 20 of Part III of the “Communications Laws (Amendment) Act, 2007”, that is, the provision under which these regulations will be made. A saving provision is made in the “Cable Systems (General) (Amendment) Regulations, 2009” with regard to existing operators (Melita Cable plc and GO plc).

The “Cable Systems (General) (Amendment) Regulations, 2009” propose that all the other provisions, namely those relating to dominance and related remedies, quality of service and broadcasting (including broadcast licences and must-carry provisions), are repealed, since they are no longer in line with EC and other Maltese key legislation. A must-carry provision is still contained in article 40 of the Broadcasting Act. The surviving provision is in relation to the need for a must-carry requirement with respect to the Education Channel and the Weather and Information Channel.

Consultation on the making of regulations entitled Broadcast Distribution Services Regulations and on amendments to the Cable Systems (General) Regulations, 2001

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