

# Gibraltar Regulatory Authority







**Annual Report  
2017 / 2018**



GIBRALTAR REGULATORY  
AUTHORITY



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# CEO Statement





# Introduction

This Annual Report of the Gibraltar Regulatory Authority is prepared in accordance with section 19(1) of the Gibraltar Regulatory Authority Act 2000 and covers the period 1st April 2017 to 31st March 2018.

## Gibraltar Regulatory Authority Act 2000

In accordance with section 3 of the Gibraltar Regulatory Authority Act 2000, the Board consists of the Authority's Chief Executive Officer and the Deputy Chief Executive Officer, and three appointed members, namely Mr Anthony Provasoli, Mr Kieran Power and Mr Francis Lopez. The three members were reappointed by the Chief Minister for a further two years.

## Organisation and Staffing

The Authority has a total staff of twenty-three and is divided into four Divisions, each with their own structure and responsibilities. The work carried out by the Divisions is briefly summarised below.

### Electronic Communications and Postal Services

The Electronic Communications and Postal Services Division divides its resources between regulating a competitive telecoms industry and a highly monopolistic postal services sector. On the one hand, the Authority engages with electronic communications providers and ensures they meet the necessary regulatory and legal standards while continually assessing the levels of competition in each electronic communications market and on the other, the Authority works with the Royal Gibraltar Post Office (RGPO), and the various courier companies, in collecting statistical information and renewing annual licences amongst other things.

In the period 2017/18 the Division has made an effort to concentrate on consumer protection issues and on how the Authority can help inform and advise consumers and end-users, in relation to the use of electronic communications services. The Authority has embarked on a campaign of publishing consumer

guidance notes on its website and has committed to initiate a pro-active approach on social media by reaching out to the public in a more efficient, transparent and effective way.

The Authority was instrumental in spearheading an initiative to create a "small nations" annual workshop as part of the International Institute of Communications, Communications Policy and Regulation Week. The workshop has now been included in their annual agenda and provides a unique opportunity for similar sized regulators to come together to share perspectives and insights and engage in meaningful exchanges on common regulatory policies.

The Authority has also actively engaged with other regulators to exchange experiences and learn from each other in the field of competition policy, consumer protection and regulatory accounting. Additionally, other areas have been discussed such as market reviews, the implications of Brexit, and roaming and access issues. By participating in these meetings, the Authority aims to become more effective and proportional in its approach to regulation given the large costs involved for a small jurisdiction.

## Spectrum & Operations

The Spectrum & Operations Division incorporates internal operations as well as being responsible for all matters relating to the electro-magnetic spectrum, radiocommunications, satellite and international coordination. The Division is responsible for administering the regulatory provision of the satellite services industry and represents the Gibraltar-based operator SES Satellites (Gibraltar) Ltd at international meetings and forums.

As part of its remit under Part VI of the Communications Act 2006, the Authority is responsible for the management and control of the electro-magnetic spectrum. Amongst its duties, the Division carries out regular site inspections of sites known to emit radio waves, with a view to ensuring they operate within recognised safe guidelines. This Division is also responsible for the management and allocation of frequencies, which extends to those used by mobile operators for the provision of mobile voice and data services.

## Information Rights

During this past year, the Information Rights Division focused its resources to the General Data Protection Regulation ("GDPR"), which will commence in May 2018, in order to assist organisations and facilitate a smooth transition to the standards under the GDPR. This included the development of several guidance notes, GDPR centric social media campaigns and participation in GDPR related awareness-raising and training events.

Following last year's increase in data protection queries received, the Division experienced a further increase of around 20% in the number of data protection queries that it dealt with, highlighting the increasing importance of the Division as a point of reference for organisations and the public.

Internationally, of particular significance was the attachment of four lawyers of INFOEM (the State of Mexico's Data Protection Authority), to the Division for one week to learn about Gibraltar's data protection framework and its procedures. The attachment was in accordance with a Memorandum of Understanding ("MOU") signed between the authorities in 2016. Additionally, the Division continued its contributions to international working groups.

With regard to enforcement, the Data Protection Commissioner (the "Commissioner"), successfully prosecuted a local company, for failure to comply with the Data Protection Act 2004. A further development in the area of enforcement was the instigation of proceedings against WHG (International) Limited for its failure to comply with an Enforcement Notice issued by the Commissioner.

## Broadcasting

The Broadcasting Division's role and duties are contained in the Broadcasting Act 2012. The Division's main responsibilities are to grant and enforce licences to broadcasters, to regulate matters on broadcasting standards, to issue codes of practice and to encourage the promotion of media literacy.

The Division does not only licence and regulate Gibraltar-based broadcasters but is also responsible for providing guidance to consumers and other users of the broadcasting services in Gibraltar. The Division has continued this year with its Media Literacy Awareness Campaign, and has delivered multiple presentations at both comprehensive schools.

## Revenue and Expenditure

During the 2017/18 financial year, the total collected was £2,312,562.33 which was paid into the Consolidated Fund. This compares to expenditure (calculated on a cash basis), for all of the Authority's divisions of £1,843,202.17.







# Electronic Communications



# Introduction

The Electronic Communications Division is responsible for regulating all electronic communications transmission networks in Gibraltar and, as such, is tasked with developing effective choice of electronic communications services in Gibraltar for both business and residential customers. This is achieved by facilitating market entry through authorisations and licences and by regulating access networks under the powers conferred to it in the Communications Act 2006.

The electronic communications sector is a rapidly evolving one and the Authority seeks to ensure that consumer demands for competitive services are met.

In 2018, consumers are now able to take advantage of the positive effects of competition in the communications sector. Alternative providers continue to increase their network reach and, as a result, more and better services are being offered to customers. Thousands of customers are now able to choose from up to three network providers, meaning that they can pick a telecommunications package or bundle which suits their needs. These bundles include highspeed broadband, fixed telephony and digital TV.

As a result, the Authority has seen a further shift in market share, most prominently in the residential and business retail broadband markets, but also in the retail mobile telephony and data markets. Many users are also switching their fixed telephony products to services supplied by the alternative providers, many of whom chose to take their existing telephone numbers with them by 'porting' to their new provider.

Throughout the past year, the Division has looked into improving its regulatory policies and processes and will continue to do so beyond 2018.

One of the standout projects undertaken, was a thorough review of the General Conditions applicable to local providers. The conditions had been in place since 2006 and were in need of updating in order to ensure that they were suitable in today's electronic communications environment. The Division published a Public Consultation outlining the proposed changes, allowing interested parties the opportunity to comment on the changes proposed. In September 2017, and taking the utmost account

of the comments received, the Division published a Decision and Notice confirming the changes as a consolidated document.

The Division continues with its cyclical market review process, and during this reporting year the wholesale broadband access markets was subject to a review. After analysis of the market, the Division published Public Consultation C02/17 on 8th May 2017 and after receiving comments from operators, the Division published Response to Consultation C09/17 on 22nd September 2017. However, after holding a conference call with the EU Commission in October, the Division was advised to again withdraw the public consultation. The Division has taken the utmost account of the EU Commission's comments and is currently monitoring the progress of this market and will be publishing a further consultation in due course.

On 4th July 2017, the Division hosted a Broadband awareness day at the Piazza in order to engage with the public on matters concerning broadband in Gibraltar. The Division took the opportunity to complete and distribute Broadband Satisfaction Surveys with members of the public, the interaction and feedback of which proved very useful to the Division in order to carry out its duties and functions. Report – C11/17 can be found on our website and displays the results of the survey.

The Division continues to provide the public with relevant and useful guidance on matters which affect consumers daily. Given the prominence of this service and misconceptions people generally have on the technologies used to provide it, the Division chose to explain how broadband speed tests are carried out and also offered tips on how users of broadband services can get the most accurate possible speed test results in order to make informed assessments on the quality of the service they are being provided with.

The Division also worked closely with Gibtelecom to develop an Accounting Separation Report ("ASR") for the purpose of complying with its Significant Market Power ("SMP") Obligations, imposed on it through previous market reviews. The report is a complex accounting document which sets out the multitude of costs attributed to the provision of various network elements and service associated with its business. Throughout the process, the Division has engaged with its consultants to understand how

best to achieve the goals which an ASR sets out to achieve. The Division organised an ASR workshop with its consultants to address outstanding matters, as well as receive expert tuition on the intricacies of an ASR.

The Authority has, over time, built a good working relationship with a number of telecommunications regulators from all over the globe. One of these, OfReg, the Cayman Islands Communications Regulator, paid the Authority a visit to discuss telecommunications licencing regimes, as well as a variety of other current topics. This meeting was one of many instances where the Authority has given and received regulatory assistance to/from other regulators over the years.

The Authority has continued to collect statistical data from authorised providers, on a quarterly basis. The Division is pleased with the level of cooperation it continues to receive from the local providers. They have been forthcoming with the relevant data requested which is complied with in a timely manner. The quality of the data they are supplying is enabling the Division to see the state of each market. With the extensive catalogue of data now readily available, the Division is able to identify the various trends which have been emerging in recent time. The Division will continue to collect statistical data and propose any changes to the data, only in the interest of obtaining better statistics, if required.

Division members have also attended a number of conferences and workshops over the last year.

## International Participation

### i. Miami – Telecommunications and Media Forum, International Institute of Communications (IIC)

In May 2017, a member of the Division attended a Telecommunications and Media Forum in Miami. The Forum's key discussion themes were:

- How might the new political and trade paradigm influence the digital transatlantic agenda?
- Over-the-top services and content: Debating

regulatory frameworks, fiscal arrangements and consumer protection and;

- What is required to drive the digital economy in urban and rural areas within the region?

The latest priorities, challenges and opportunities for regulators and policy makers were discussed in a forum attended by over 30 countries from the Americas and Europe. Apart from sharing experiences and best practice in a relaxed environment, the Authority was able to establish new contacts in order to learn how these regulators implement and enforce telecoms policy in a non-European environment. Developing working relationships with other telecoms institutions in these areas and in the Commonwealth has now become a priority for the Authority given the implications of Brexit.

### ii. Brussels - Communications Policy and Regulation Week, International Regulators Forum, IIC, October 2017

A staff member attended the IIC's International Regulators Forum in Brussels during October 2017. The event was hosted by the Belgian Institute for Postal Services and Telecommunications, BIPT and was represented by regulators from all different regions of the world.

A workshop on internet connectivity and net neutrality in island nations was held on the day before the Forum. A small group of regulators joined together to discuss more relevant issues with regards to their physical geography and small size. Regulators from Jamaica, Taiwan, Singapore, Cayman Islands and Malta amongst others provided comments and feedback on emergency planning, the difference between large and small jurisdictions in terms of regulation and competition and the diversity of policy across the globe.

### iii. London – Effective Telecoms Strategies training course, October 2017

In October 2017, a member of the Division attended an intensive week-long telecommunications training course. This interactive course focused on developing the participants' knowledge in identifying sources of strategic value, analysing strategic technology and business models, evaluating the impact of industry trends, determine sustainable competitive



advantages, identify innovative customer segments and assess key risks of business strategies.

#### **iv. Brussels - Mastering European Telecommunications Regulation, October, 2017**

In October 2017, a member of the Division attended a telecommunications training course in Mastering European telecommunications regulation held by Cullen International in Brussels.

The course was held over three days and matters discussed included:

- The EU harmonisation procedure
- The Liberalisation process
- Market Analysis and Non-Discrimination
- Net Neutrality
- International Mobile Roaming, fixed and mobile termination
- Fixed and Mobile Access
- Spectrum Framework, Regulation and Awards.

#### **v. Isle of Man – Meeting of Small States, May 2017**

In May 2017, a member of the Division along with the CEO and a member of the Broadcasting Division attended a meeting with other fellow regulators of Small States in the Isle of Man.

These forums have been established for a number of years now and have been instrumental to maintaining good working relationships between regulators of similar sized jurisdictions.

The meetings were held over two days and agenda items included:

- The challenges of regulating in smaller jurisdictions and how to overcome them
- Broadband Universal Service Obligations
- Spectrum 5G and the award process of the 5G licence

Other topics included media literacy awareness, of which a very stimulating presentation was provided by a member of the Authority's Broadcasting Division,

radio audience surveys, numbering and freedom of information.

The challenges of regulating in smaller jurisdictions comprised mostly of emerging and upcoming issues, especially regulating and policy making with evolving technology, problems with access and how to impose proportionate and fair obligations on incumbent operators. In relation to the broadband Universal Service Obligations ("USO"), matters discussed were the minimum speed requirements. The minimum broadband speed requirement in Gibraltar is currently 4Mbps although this speed may be reviewed and updated in the next Universal Service review to be carried out by the Division in September 2018.

## **Regulatory Matters**

### **i. Market Reviews**

On 8th May 2017, the Authority issued national consultation C02/17 on Wholesale Broadband Access Markets. The review also encompassed the retail side of the sector.

On preliminary assessment, the Division's view was that the incumbent operator, Gibtelecom, had SMP in the markets for wholesale broadband access and retail broadband due to its very high market share (circa 70%), in the retail market and would remain dominant for the lifetime of the review.

Two operators provided comments to the consultation, and the Response to Consultation C09/17 was published on 22nd September 2017. This document outlined the proposed obligations to be imposed on Gibtelecom given that it was established as dominant in both markets. However, in October 2017, following a conference call with the European Commission, the Authority was advised to remove regulation in the retail market and to withdraw the public consultation. The Authority was therefore invited to re-consider its position by only imposing obligations in the wholesale markets. Consequently, Notice C10/17 withdrawing the consultation was issued by the Authority on 6th October 2017.

The Division is currently assessing market conditions and recent statistics collated have revealed that the market has changed considerably since the initial

consultation was published. Gbtelecom's retail broadband market share has reduced considerably and is expected to continue to reduce with alternative operators such as U-mee and GibFibreSpeed obtaining larger market shares.

These alternative operators are in the process of rolling out their individual fibre networks across most of Gibraltar and therefore the increased level of competition has reduced broadband prices across the board, and enhanced broadband speeds to up to 300Mbps. These considerable changes will be taken into account in the upcoming review of these markets.

## **ii. GibFibre Complaint about Gbtelecom**

This matter stems back to 2016 where a complaint was received from an authorised operator GibFibre in regards to it being refused access to a data centre owned by Gbtelecom. During the previous reporting period, the Authority had determined that it was unable to intervene in the matter as it lacked the powers to do so.

In May 2017, GibFibre appealed the decision of the Authority in the Supreme Court. The matter is scheduled to be heard in May 2018.

## **iii. Accounting Separation Reports**

Gbtelecom has been designated as having SMP in various electronic communications markets and consequently is subject to obligations of accounting separation, cost accounting and non-discrimination, amongst others. As one of its obligations, Gbtelecom has to submit an audited ASR every year and this is checked by the Authority in order to ascertain information on Gbtelecom's businesses and the communications markets at large.

On 21st September 2017, Gbtelecom submitted the 2015 and 2016 ASR's simultaneously in the new Historical Cost Accounting (HCA) model formats as required by the Authority during its last accounting review in 2017. The ASR includes a breakdown of the electronic communications markets in which Gbtelecom is dominant and includes accounting documents, attribution methodology documents and regulatory financial statements.

The Authority is currently reviewing both reports and assessing compliance with the Authority's

Decision Notices and guidelines issued in the field of accounting separation and cost accounting. Upon preliminary review, the Authority has identified some issues with the cost allocation of certain network elements and the cost drivers used. The Authority has also requested further clarification on other sections of the ASR and will be completing its full review shortly.

## **iv. Annual Data Gathering Exercise**

The data gathering exercise continued into 2017 and 2018, and has proved essential in allowing the Division to improve its ability to monitor and supervise the various communications markets.

The quarterly data submitted by all providers has enabled the Division to report on market developments and has provided information for consumers and stakeholders alike via the Authority's social media platforms. The information has been widely used to inform consumers of various topics of interest such as retail pricing, coverage of fibre networks and comparison tables for mobile and broadband services.

With the data provided, the Division can assess market developments and oversee its compliance.

The Division also uses this information to provide statistics and data required by the Government Statistics Office as well as the International Telecommunication Union (ITU) amongst other official organisations.

## **v. General Conditions Review**

In 2017, the Division embarked upon a review of its documents and procedures. A number of possible updates were identified and one of the documents actioned was the Notice on General Conditions.

Under Regulation 17 of the Communications (Authorisation and Licensing) Regulations 2006 (the "Regulations"), a General Condition is a condition listed in Part A of the Schedule to the Regulations and every communications provider holding a General Authorisation must comply with the conditions applicable to them.

The Authority considered it appropriate to review and update the Notice on General Conditions, given that the previous Notice was published more



than five years ago, and some operators obtained a General Authorisation after its publication. Further clarification has also been provided to enable operators to identify which General Conditions apply to them. The Authority, therefore, proposed amendments in Public Consultation C04/17.

More specifically, amendments were made to the number portability condition by consolidating the fixed and mobile porting process into one streamlined section. Other amendments included changes to the transparency and publication of information condition which now includes a condition to notify the Authority of any changes to terms and conditions, price changes and introduction of new services before or on the actual date of publication. Many of the other modifications included minor amendments to various conditions, as well as updating and standardising definitions.

Comments were received by Broadband (Gibraltar) Ltd, GibFibre and Gibtelecom.

#### **vi. Broadband Awareness Day**

In early 2017, members of the Division conducted a Broadband Customer Satisfaction Survey in order to understand the local broadband market and consumers' perception of the quality and value of broadband services in Gibraltar. The survey was designed to look into specific aspects of the services consumers were purchasing and learn about which areas, in their opinion, broadband providers were offering a good service and identify areas where customers were dissatisfied.

The Division launched this survey as part of an awareness campaign. Information on the broadband services available locally, together with guidance notes and general information on broadband, was circulated on social media. The Division visited key locations in Gibraltar to carry out the survey and hosted a 'Broadband Awareness Day' at the Piazza on the 4th July 2017. The public engaged in open discussions on telecommunications, and completed the survey. Members of the Division distributed questionnaires and answered questions on broadband provision in Gibraltar.

The Division also made the survey available by electronic means.

A total of 350 surveys were completed and the results were published in December 2017, in document

C11/17 which highlight the key findings of the survey.

Out of those surveyed, 184 were Gibtelecom customers, 111 were U-mee customers, 39 were GibFibreSpeed customers and 3 were Sapphire Networks customers. The Division expected this to be the case given that Gibtelecom, in fact, currently holds the largest share of the broadband market in terms of subscriber numbers, followed by U-mee, GibFibreSpeed and Sapphire Networks respectively. A few people were contracting services from more than one provider. The percentages of market share are expected to change over the next year.

Just over a quarter (26%) of those consulted, considered price to be a determining factor preventing them from upgrading their package to one with a higher speed. Having said this, 47% of customers considered their current package speed to be sufficient.

Over 70% of all those who took part in the survey, provided positive reviews on the overall quality of the broadband service delivered by their providers. From a regulatory point of view, it is very encouraging to see that operators are providing a good service to their customers. Only 18% were undecided or had no significant opinion on the quality of the service they were receiving, and 9% were dissatisfied or very dissatisfied. Most of those who purported to be Dissatisfied or Very Dissatisfied, referred to a negative incident they had experienced in the past, and not necessarily to any recent issues at the time of completing the survey.

Based on the significant developments which the local broadband market has seen over the last few years, it is safe to say that consumers in Gibraltar are satisfied with the speeds and quality of the services available to them. When considering the results of this survey, it can be concluded that, generally, providers are doing well. However, there are areas which may need addressing in the future for providers to retain existing customers and attract new ones.

#### **vii. GOS Consulting workshop, Leased Lines Market Review**

In October 2017, GOS Consulting Limited ("GOS"), held a one-day workshop for members of the Division on the Retail Leased Lines and Wholesale High Quality Access at a Fixed Location market review.

The discussions involved learning about the market definition, market analysis and SMP obligations involving leased lines. Many issues were raised and debated throughout the day, with GOS clarifying several areas. A detailed review of the draft national consultation was provided with various amendments being made to the draft document.

Changes were made to the draft data request questions which are provided to operators. The questions were clarified and drafted more specifically so that the Authority could obtain key information to make it possible to attain a reliable market assessment. The Authority wanted to understand what role leased lines played on the local market and how much customers were willing to spend on leased lines in general. Therefore, pricing structures including connections and rentals, as well as any potential discounts for volumes or contract duration, were accounted for in the questions. It was also thought crucial to obtain operator copies of terms and conditions and service level agreements and guarantees. Issues associated with access were discussed as well as issues with the current provision of leased lines products and how they impact the operators' business.

When looking at the market definition, GOS explained that the Authority needed to address the retail market first and assess functionality. The discussion centred on whether leased lines and broadband products were in the same market. The description of a leased line and the market characteristics seemed to differ from broadband products and therefore it was determined they were not in the same market. Gibtelecom seemed to have the highest market share (60-80%), during this time, and there had not been any changes to the market in recent years. In relation to the wholesale leased line market, Gibtelecom was currently self-supplying and there are no wholesale products being taken up by alternative providers at this time or any interest to do so. The market seems to be quite static currently, with high costs and no new business.

#### **viii. GOS Consulting workshop, Accounting Separation Report**

In February 2018, GOS held a two-day workshop for members of the Communications Division on Accounting Separation.

Day one focused on the preparation of ASR

("Accounting Separation Reports"). A brief summary of the history, purpose and background for imposing a regulated accounting obligation in the electronic communications markets was provided. GOS explained the software used to produce the regulatory accounts. The Division learned how costs are attributed in regulatory accounting and why, as well as the data Gibtelecom needs to input into the regulatory accounts and how that is collected. GOS further provided the Division with an overview of costing methodologies and how they are used. Basic explanations of the various accounting documents provided as part of an ASR were given, together with an overview of the different accounting templates that must be completed by any operator subject to an accounting separation or cost accounting obligation.

Day two was based on reviewing and interpreting ASRs submitted by Gibtelecom and using the contents to support regulatory decisions. When assessing compliance with the Authority's decisions, these rules formed the basis of all checks performed by the regulator. Transfer charges, the routing factors matrix and an assessment of the return of capital employed were also discussed.

The Division also considered how to identify potential cross subsidies, how to perform non-discrimination checks, assess profitability in a specific market and check for potential margin squeeze and predatory pricing by assessing corresponding retail and wholesale prices. A retail cost orientation exercise was also performed.

#### **ix. Guidance material**

The Division has continued to provide consumers with useful, accurate and up to date information regarding the electronic communications sector.

#### **GUIDANCE FOR PARENTS ON SAFE AND RESPONSIBLE USE OF THE INTERNET**

This guidance note contains useful information for parents and guardians of young children who use the internet. Questions posed within these notes are intended to make parents think about what their child may encounter while using the internet.

#### **ROAMING GUIDANCE ON MOBILE PHONE USAGE WHILST ABROAD**

This guidance note contains useful and important

information for those who are planning on making calls, sending texts or using data on their mobile phones whilst abroad. The guidance offers simple tips on how to stay safe and what to do if your phone gets lost or stolen.

#### GUIDANCE FOR SAFE COMPUTER AND INTERNET USE

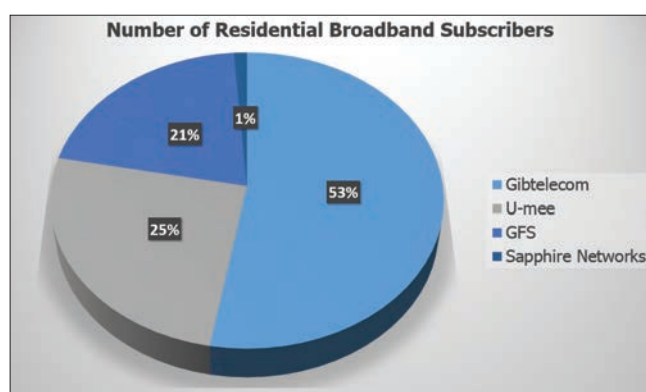
This guidance offers advice on safeguarding personal information, protecting computers and portable devices against email scams and malware attacks. The guidance provides readers with an overview of what to look out for and how to put simple measures in place which will minimise the chances of exposing themselves to cyber-attacks.

#### BROADBAND SPEED TESTS - GUIDANCE NOTES FOR CONSUMERS

These guidance notes contain information for consumers who are planning on using broadband speed tests. Users may follow simple tips to carry out a speed test correctly.

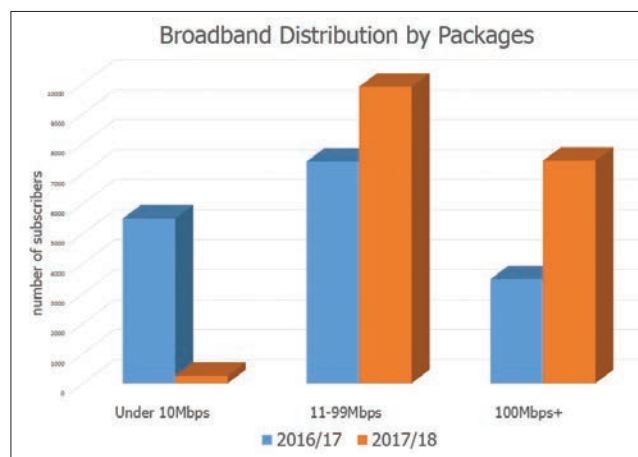
### x. Statistics and Trends

At the end of 2017, the total number of broadband subscribers in Gibraltar increased from 16,357 to 17,373. As with previous years, the increase may be attributed to the increasing availability of residential housing projects being developed throughout Gibraltar. Market shares in the residential fixed internet broadband service have also changed substantially, as illustrated in the chart below:



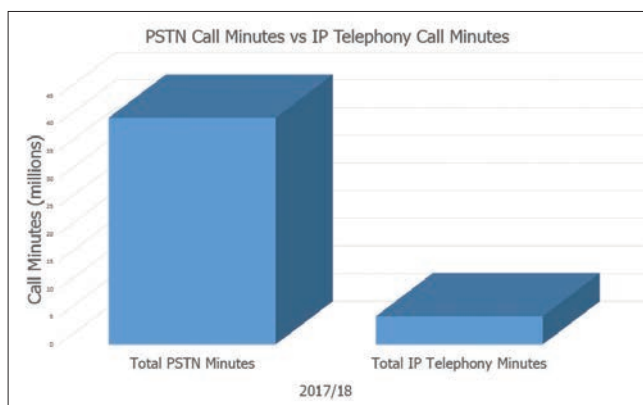
Gibtelecom's residential broadband market share has reduced to 53% from 70% at the end of 2016. Broadband package offerings from U-Mee and GibFibreSpeed are resulting in subscriber numbers transferring to these alternative providers which, in turn, has increased their share in the residential broadband market to 25% and 21% respectively.

With operators competing for customers, Gibraltar's broadband market now benefits from a wider availability of products from broadband providers. Subscribers are now benefiting from FTTH broadband with speeds of up to 300Mbps, as well as customisable packages in excess of 300Mbps. The chart below shows 2016/2017 and 2017/2018 distribution of broadband packages in Gibraltar:



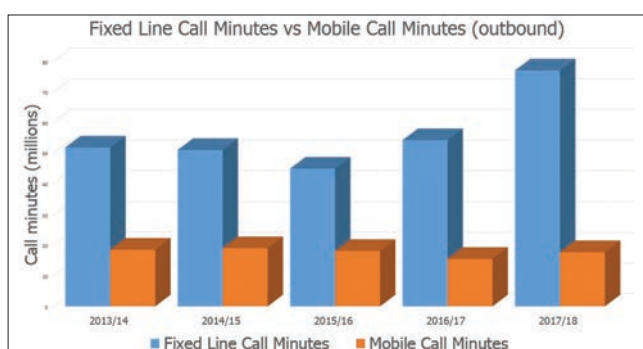
The figures collected suggest that many subscribers are opting for higher bandwidth packages and over 25% of subscribers purchasing a 100Mbps broadband package. Based on the number of subscribers consuming a range of broadband services, the average bandwidth consumed currently by subscribers in Gibraltar is over 80Mbps, up from around 50Mbps during the last reporting period. It is expected that this number will continue to increase, as consumers shift to higher bandwidth products on offer, and lower bandwidth packages become obsolete or phased out.

Gibraltar has experienced a small upsurge in the total number of call minutes made via fixed IP telephony compared to previous years. The chart below shows that traditional telephony call minutes over the public switched telephone network ("PSTN"), are much higher than IP telephony. In addition, there is no way of accurately measuring the extent to which over-the-top services such as Skype, Facetime etc. may have had an impact. Traditional PSTN fixed calls has dropped from 50.4 million minutes to 41 million call minutes in the period 2017/18, a decrease of over 18%. Interestingly, fixed IP telephony has increased from 3.6 million to 5.1 million minutes and that represents an increase of over 38% year on year:



In the mobile calls market, the chart below shows an increase when compared to the figures collected for the last reporting period, up from 15.5 million minutes to 17.7 million minutes (an increase of around 42%), and is the first increase since 2014/15. The increase coincides with the launch of services and collection of statistics of the new mobile provider, Limba Telecom, with over half a million minutes contributed by the new operator.

Fixed call minutes have also experienced a notable increase in the last year, up from 54 million minutes to almost 77 million minutes, an increase of over 14%.



## xi. Revenue Collected

During the period 2017/18, and in accordance with the provisions of Regulation 31(9) of the Communications (Authorisation and Licensing) Regulations 2006, and Direction M01/2006 of the 5th June 2006 concerning Administrative Charges, the Authority collected a total of £917,855.00 in respect of the administrative charges for network and service providers.





# Radio Communications



# Introduction

The Spectrum & Operations Division deals with all matters relating to the electro-magnetic spectrum, radiocommunications, satellite and international coordination, as well as internal ICT and facilities' management. The Division is also responsible for administering the regulatory provision of the satellite services industry and issuing Outer Space Licences. The Division represents the Gibraltar-based operator SES Satellites (Gibraltar) Ltd ("SES-G") at international meetings and forums and ensures it complies with the International Telecommunication Union ("ITU") Radio Regulations and all other international obligations.

As part of its remit under Part VI of the Communications Act 2006, the Authority is responsible for the management and control of the electro-magnetic spectrum. Amongst its duties, the Authority carries out regular site inspection of sites known to emit radio waves, with a view to ensuring they operate within recognised safe guidelines. The Authority is also responsible for the management and allocation of radio frequencies, which extends to those used by mobile operators for the provision of mobile voice and data services. The Authority also issues licences to all users of licensable equipment which emit radio waves.

The Division examines each new satellite project and carries out the required due diligence before the filing is forwarded to the UK Administration for submission to the ITU. The Division assists with the coordination of these satellite networks located in over 20 orbital slots.

The Authority has this year issued two Outer Space Act licences for the drift and operation of existing Gibraltar Licensed satellites NSS-11 and AMC-18.

# International Coordination and Participation

## i. Satellite Coordination

The geostationary orbit is where most of the communication satellites are located. At this distance of 36,000km from the Earth, the physical nature of the orbit causes the satellite to travel at the same speed as the rotation of the Earth. This means the satellite would be pointing continuously at the same position on the Earth's surface. Conveniently, this means dish antennas on the ground are kept fixed and pointed at a satellite with no tracking required. This therefore makes orbital slots and the associated frequency bands to be used, limited natural resources and they must be rationally, efficiently and economically shared in conformity with the ITU Radio Regulations. The huge benefits of placing a communications satellite in the geostationary orbit has subsequently made it very congested over the years. Any prospective satellites associated with a new filing would need to comply with the regulatory procedures and rules set out by the ITU.

Essentially, all filings can be grouped into two types of services, Fixed Satellite Service ("FSS") and Broadcasting Satellite Service ("BSS"). Once a new filing is submitted to the ITU, the regulatory clock with a 7 to 8 year's timeframe for FSS and BSS respectively will commence.

The ITU will examine the filed parameters to calculate the potential of harmful interference these new satellites could cause to existing satellite networks. When the filing is accepted by the ITU, it will be published in the latest bi-weekly International Frequency Information Circulars ("IFIC") to inform all other administrations of the new satellite filing.

This starts off the lengthy process of coordination with the operators identified as potentially affected and numerous exchanges of correspondence and meetings are held to complete coordination. Compromises need to be found and technical parameters adjusted so that satellites can co-exist and avoid interference.

Once efforts have been made to coordinate the

filing, these can be notified to the ITU before the regulatory deadline and entered into the Master International Frequency Register ("MIFR") which grants it international rights and obligations. When a satellite is placed in the planned orbital slot, it can then bring into use its respective frequency bands.

To date, SES-G has registered 35 filings with the ITU in 16 orbital slots around the geostationary orbit.

Gibraltar has a mature satellite industry and currently has 11 filings brought into use and notified with the ITU, with most of activity this year going into existing key orbital slots. These SES-G existing networks could potentially suffer interference from new incoming filings and the Authority has identified 2844 satellite networks from different administrations that could potentially affect SES-G networks.

### **Coordination Requests sent to Administrations**

When administrations from other countries submit new filings near the Gibraltar orbital slots, they have the potential to cause harmful interference. The Authority must examine the publications of these new networks and inform the relevant Administration that coordination is required. With this in mind, the in-house software has been re-vamped and updated to make the process simpler and more efficient. Further enhancements have enabled the drastic reduction in the 'analysis time' and therefore allowing for more time to consult with the satellite operator before the expiry of the period for comments/objections.

### **ii. Preparations for the World Radiocommunication Conference 2019 (WRC-19)**

The new ITU-R study period started immediately following the conclusion of the WRC-15 Conference. At that Conference, the agenda for the next World Radiocommunications Conference was formally agreed and the attribution of the Agenda Items to the various ITU-R Study Groups and associated Working Parties and Task Groups were assigned.

Once the structure of the studies at ITU level are known, it is then for the regional bodies to agree their respective parallel organisational structures. In Europe, the Conference of Posts and Telecommunications (CEPT) is the body responsible for coordinating the European activities regarding

the studies related to the various conference agenda items. Project Teams have been established in the CEPT to address a linked range of agenda items – that is to develop and undertake the necessary technical studies and regulatory text on each agenda item and agree European Common Positions (ECPs) and the associated CEPT brief.

The UK regulator, Ofcom, consulted with stakeholders on the WRC-19 agenda items with a view to identifying what would be the high, medium and low priority issues for the UK. Following the consultation, the UK has identified that the high priority issues are allocations above 24.25GHz to IMT(5G), Earth Stations in Motion (ESIM) in the Ka-band and RLANs in the 5GHz band. These issues are also considered high profile agenda items for the Authority. The Authority has been attending the UK WRC-19 preparatory groups and has taken a particular interest in the work being undertaken in IFPG WG1 and IFPG WG3.

In addition to attending these UK preparatory working groups, the Authority has also attended meetings in London of the International Spectrum Stakeholders Briefing (ISSB) group, the Satellite Consultative Committee (SCC), the UK Space Agency Industry Group and the UK Spectrum Policy Forum.

### **iii. Satellite coordination meetings**

The Authority was represented at two Administration level satellite coordination meetings between the United Kingdom and China, and the United Kingdom and Indonesia respectively. The meetings were held in London in October and November 2017. Good progress was made during the meetings with a number of coordination agreements completed and subsequently ratified.

### **iv. SES-G Development Plan Review meeting**

A meeting was held between the Authority, OFCOM and SES-G in Gibraltar in June 2017 to discuss the Annual Development Plan update for the SES-G satellite filings. The updated plan was reviewed and approved by the Authority prior to discussions with Ofcom.



## v. Terrestrial Coordination

As part of the future release of the 700 MHz band currently used for DVBT (Digital Video Broadcasting-Terrestrial) in Europe and in ITU Region 1, the Authority has been coordinating with Spain, the relocation of the Gibraltar Freeview Channel 56 to a lower channel. After negotiations over the course of a couple of years, an agreement has been reached with both Morocco and Spain for the future relocation of this channel to make spectrum available for Long-Term Evolution ("LTE"), in this band. Similarly, Spain, Morocco and other EU and Region 1 countries have been working for a number of years to make this spectrum available for LTE. Although the relocation of channel 56 is not imminent, discussions have been initiated with Gibraltar Freeview Limited to plan for the relocation.

# Regulatory Matters

Below is an overview of regulatory matters dealt by the Division during 2017/18:

## i. Fourth Generation of Mobile Telecommunications Technology (4G)

At the request of Gibtelecom, and after careful consideration of other operators and users of the spectrum, the Authority re-aligned the 1800 MHz band allocations previously used exclusively for 2G services. This re-alignment has allowed Gibtelecom to rollout 4G services in this band and so complement its 4G network as well as making the transition towards consolidating more efficient use of its spectrum allocations.

## ii. Management of the Electro-magnetic Spectrum

Section 56 of the Communications Act provides that the ownership of the electro-magnetic spectrum in Gibraltar shall "vest exclusively in the Government and the Minister shall be responsible for its management and control", and that the Minister "may appoint, in writing, any person appearing to him to be suitable to exercise any of his powers, tasks,

duties or functions in relation to the management of the electro-magnetic spectrum in Gibraltar."

The above-mentioned responsibility has been assigned to the Authority and, as part of its annual remit, carries out regular inspections of the electro-magnetic spectrum using equipment capable of measuring unauthorised interference, the power levels of equipment transmitting radio waves, and a number of other factors useful in determining the state of Gibraltar's electro-magnetic spectrum usage.

As part of the management of the electro-magnetic spectrum in Gibraltar, the Authority carries out compliance monitoring to ensure emissions from transmitters comply with international guidelines as set by the ICNIRP. As part of the licensing process, the Authority conducts annual site inspections on all mobile base station installations, and routinely audits base stations throughout Gibraltar for compliance. Full details of these inspections can be found on the Authority's website. All site inspections, spectrum audits and interference investigations are conducted by trained staff, using industry-leading spectrum analysers that can identify the power, frequency and general direction of most transmitters within the 9 kHz – 22 GHz range. Due to the high volume of buildings and Gibraltar's topography, locating the source of interference is a mixture of applying theoretical knowledge of radio propagation, and the use of the equipment and educated guessing. The Authority, however, is not responsible for establishing the recommendations for exposure to electro-magnetic emissions. Therefore, the Authority is unable to set emission safety levels, and it has neither the expertise nor the remit, to participate in matters concerning biological or health research. The Authority has, however, been working closely with the Ministry of the Environment to ensure that concerns from the public regarding electromagnetic emissions from mobile base stations and other radio transmitters are addressed swiftly.

## iii. Interference and Power-Level Monitoring

The Authority also carries out inspections, if concerns are raised by members of the public and organisations alike, where there is a suspected case of interference with, or misuse of, Gibraltar's electro-magnetic spectrum, such as transmission at power levels beyond those recommended by the Authority. In the period 2017/18, the following matters were attended to:

#### iv. TETRA

The Civilian Terrestrial Trunked Radio ("TETRA") service used for the emergency services and run by Gibtelecom, has been suffering from intermittent interference which degrades the quality in a specific area in Gibraltar. Although investigations are still ongoing, the Authority is confident the source of the interference will be identified, and the matter resolved.

#### v. Mobile Bands

Over the past few months, there has been an increase in the 'noise' level i.e. background emissions, which has been affecting mobile operators. Generally, the increase in noise level degrades the quality of service to a relatively small degree and is usually temporary or extremely short lived to be of any real concern. This year however there has been detected, continued increase especially in the Europort area, affecting the 2100 MHz band which is mainly used for 3G and voice call. At the peak of the interference, reports of missed and dropped calls were received from Gibtelecom. Although the Authority investigated the matter in collaboration with Gibtelecom, the source, presumably an illegal signal booster, was switched off before its location could be determined.

To a lesser degree, a similar issue is still ongoing that is affecting the 800 MHz band used for 4G. During the investigation, a rogue signal originating from the Harbour Views area has been identified as well as a high-powered signal transmitting adjacent to this band which could be causing the raise in noise level.

#### vi. MTV Gibraltar Calling

The Authority continues to work closely with event organisers which in general utilise a substantial amount of spectrum. From radio microphones for the artists, to PMR equipment for security and management, most devices require a licence and they have the potential to interfere with other licensed operators. The MTV Gibraltar Calling event is probably the largest event which generates numerous requests for spectrum. This also extends to mobile telephony operators who request additional spectrum to provide their customers with a good service in a highly congested location.

#### vii. Advice and cooperation with other agencies

The Division continues to work closely with the Ministry for Environment and other Government Agencies to address issues relating to radiocommunications, especially perceived health risks from radio transmitters.

#### viii. Licensing of the Electro-Magnetic Spectrum

The Authority collects licence fees on behalf of Her Majesty's Government of Gibraltar and uses different licensing schemes to promote the use of technologies and maximise the use of the electro-magnetic spectrum efficiently. The following table outlines the fees collected during the period 2017/18 for each type of licence issued under Part VI of the Communications Act 2006.

Accounting Authorities	£8500.00
AGRS	£393.00
CB Radio	£96.00
Fixed Links	£5965.00
Mobile	£510,262.00
Paging	£276.00
PMR	£9200.00
Port Ops	£3525.00
Radar	£139.00
Radio Amateur	£360.00
Ship Station Licence	£37,655.00
Wireless Dealers	£2900.00

Furthermore, during the period 2017/18, the Authority renewed six Outer Space Act (OSA) licences for SES-G for each of the satellites operating in Space and which are controlled from Gibraltar. The total revenue received as a result of the issuing of these licences was £6,000.

Currently, SES-G holds 3 classes of Teleport Facilities Licence's ("TFL") with a combined generated revenue in this period of £616,173.00. The increase from the previous year is due to an applicable 4% cumulative increase as well as the early renewal for one of the TFL's for the period 2018/19. A TFL, which is a Part VI licence under the Communications Act 2006, authorises a licensee to establish and use specific earth stations for the purpose of providing a link to specific satellites through the use, from an identified location, of specific frequency bands.



## **ix. Outer Space Act**

The UK's Outer Space Act 1986 was extended to Gibraltar by the Outer Space Act 1986 (Gibraltar) Order 1996, which conferred licensing and other powers on the Governor of Gibraltar to ensure compliance with the international obligations concerning the operation of space objects and activities in outer space by individuals associated with Gibraltar. These powers, duties and responsibilities were delegated to the Authority, by the Delegation of Functions (Outer Space Act 1986 (Gibraltar) Order 1996) Notice 2001.

Currently, there are six Gibraltar-licensed satellites.

Two of these satellites i.e. SES-7 and SES-9 satellites are located at the 108.2E orbital slot. The AMC-21 satellite at 125W and SES-15 is at 129W orbital location. NSS-11 was drifted from 108.2E to 176E and AMC-18 was also relocated from 105W to 139W. All the satellites licensed by the Authority are included in the UK's Registry of Space Objects and the Authority works closely with the UK Space Agency (UKSA), to ensure that the satellites are operated in compliance with international treaties and principles covering the use of outer space.

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# Introduction

The term “Data Protection” relates to the processes and controls used to safeguard information about individuals and their privacy. Data protection in Gibraltar is currently regulated under the Data Protection Act 2004 (“DPA”), which designates the Authority as the Data Protection Commissioner (“Commissioner”).

The functions of Commissioner are exercised by the Chief Executive Officer. These are assigned under Part IV and V of the DPA and are:

- Provision of advice on data protection related matters
- Investigations of data protection related complaints
- Inspection of data controllers
- Awareness raising of issues related to data protection and privacy
- Maintenance of a Register of Data Controllers

The 2017/18 period has been an important year for the Division, in particular, because of the work undertaken in preparation for the introduction of the General Data Protection Regulation (“GDPR”) and the Data Protection Law Enforcement Directive, which will come into force in May 2018. Due to this significant change in the law, the Division diverted some of its resources, which previously focused on inspections, to the provision of guidance to help organisations prepare for the new law.

Following an increase of around 40% in the number of data protection queries received in the period 2016/17, this year the Division has seen a further increase of 20% from last year’s figures. The figures highlight the Division’s growing importance as a point of reference for organisations and the general public.

In the area of international cooperation and participation, of particular significance was the attachment of four lawyers of INFOEM (the State of Mexico’s Data Protection Authority) to the Division for one week to learn about Gibraltar’s data protection framework and its procedures. The attachment was in accordance with a Memorandum of Understanding (“MOU”) signed between the Authorities in 2016.

With regard to enforcement, the Commissioner successfully prosecuted Oxford Learning College, a local company, for failure to comply with the DPA, which resulted in a fine of £1,000 imposed by the Magistrate’s Court. Other action involved the Commissioner’s use of his enforcement powers against WHG (International) Limited.

## International Participation

An important part of the Division’s role is to liaise with regulators in other jurisdictions with regard to the development of practices in the regulation and enforcement of data protection.

The Division has participated in various international events and projects and liaises with other regulators internationally to coordinate, cooperate, and align regulatory activity where possible and appropriate, to maximise its efficiency and effectiveness, and contribute to developing practices.

### i. Conference of European Data Protection Authorities, April 2017

The Division attended the yearly Conference of European Data Protection Authorities (“EDPAs”), which was held in Limassol, Cyprus. The Conference was titled “New Horizons” and saw the participation of over 80 delegates from various EU Member States. The following points summarise some of the key topics addressed during the event:

- The modernisation of Convention 108: data protection authorities deliberated on the ongoing work being carried out to update Convention 108 and issued a Resolution on its modernisation, which expressed strong support for the negotiations taking place at the Council of Europe and called upon the governments of the Council of Europe Member States and the European Union to finalise the modernisation of the convention.

Convention 108 is to date the only binding international treaty in the field of data protection and is an important legal instrument for data protection regulators world-wide. Its modernisation

is considered vital to keep up with the increasing risks to personal data and privacy.

- **Awareness raising:** delegates discussed the main issues and challenges of raising awareness, especially in consideration of the GDPR. Delegates identified the importance of exploring best practices and ways of developing communication strategies so that data protection authorities can inform individuals and organisations of their rights and obligations under the GDPR.
- **Transparency and accountability in the Cloud:** the conference discussed the development of cloud technologies and related data protection implications, in particular, the security of data. Delegates identified the importance of ensuring compliance with data protection requirements and accountability mechanisms when using cloud technologies.
- **Genomes and DNA databases:** The discussion surrounded the development of genomic research and the implementation of national criminal offender DNA databases. Delegates discussed the legal and ethical issues raised by the use of these databases and genomic research.

## **ii. Global Privacy and Enforcement Network Sweep, May 2017**

The Division participated in the Global Privacy Enforcement Network's ("GPEN") Annual Sweep for a fourth consecutive year. GPEN is an increasingly important platform for international cooperation between data protection authorities globally.

The Sweep involved 24 data protection regulators from around the world and this year focused on privacy notices in the online sector. The Sweep found that privacy communications across the various sectors tended to be vague, lacked specific detail and often contained generic clauses.

Organisations need to be more open, honest and transparent in their online privacy notices about how they handle people's personal data. With the introduction of the GDPR and the enhanced obligations on organisations for them to provide clearer information, this is an area that the Division will give greater attention to in its future work.

## **iii. Unsolicited Communications Enforcement Network Sweep, June 2017**

The Division participated in a global intelligence-gathering operation organised by the Unsolicited Communications Enforcement Network ("UCENet"). The UCENet Sweep involved 10 agencies from six countries visiting 902 websites and examining 6,536 consumer complaints related to affiliate marketing in their respective databases.

Affiliate marketing is a commercial arrangement allowing a company to generate business by allowing other organisations ("affiliates") to promote their products or services.

The Division's focus in the Sweep was on issues relating to privacy. However, the overall issues found in the UCENet Sweep included a lack of appropriate unsolicited communication guidelines between affiliates, merchants and the affiliate platforms, affiliates generally not possessing the consent of consumers to send electronic communications, misleading advertising and issues relating to the short lifespan of affiliate marketing platforms, which would make enforcement a challenge

## **iv. British, Irish and Islands Data Protection Authorities (BIIDPA) Annual Meeting, Gibraltar in June 2017, and Manchester in January 2018**

A BIIDPA meeting is held at least once every year. This year, the meeting was hosted by the Commissioner in Gibraltar. The event saw the participation of data protection authorities from the UK, Ireland, Channel Islands, Isle of Man and Malta.

The agenda centred mainly on preparations for the implementation of the GDPR, both in terms of adjustments needed to regulatory frameworks, as well as initiatives to provide guidance to organisations. The GDPR's flexibility for Member States to introduce their own national law, was also subject of significant deliberation and exchanging of ideas.

Gibraltar's Chief Minister, the Hon Fabian Picardo, opened the event by welcoming the delegates and spoke about the importance of Gibraltar maintaining EU standards on data protection post Brexit.

An additional BIIDPA meeting to discuss the implementation of the GDPR was held in January 2018 in Manchester.



#### v. INFOEM attachment to the GRA, June 2017

Further to a cooperation agreement signed by the Commissioner and INFOEM (the State of Mexico's Data Protection Authority) in October 2016, four lawyers from INFOEM were attached to the Division for one week to learn about Gibraltar's data protection framework and the Authority's procedures.

This event highlights the Authority's active contribution and participation in international cooperation. Despite its relatively small size, the Authority is able to assist larger regulators and contribute to the international development of data protection.



#### vi. European Case Handling Workshop & GPEN Enforcement Practitioners Workshop, Manchester, June 2017

Two members of the Division participated in workshops hosted by the UK Information Commissioner's Office, held in Manchester.

The workshop brought together EDPAs to share experiences in the handling of investigations and to discuss current and developing data protection issues. The Division delivered a presentation and led a discussion in relation to privacy issues relating to the use of cookies in the online environment.

#### vii. International Conference of Data Protection & Privacy Commissioners, Hong Kong, September 2017

The Authority is an accredited member of the International Data Protection & Privacy Commissioners Conference, which this year held its 39th International Conference. The conference brings together data protection and privacy Commissioners from around the world, and other important organisations such as the Council of Europe and the European Data Protection Supervisor.

At the event, Commissioners discuss data protection issues, share knowledge, and work collectively on current and developing issues. Amongst other things, the International Conference, as the Global Group of Commissioners, adopts resolutions that set out the International Conference's resolve in relation to specific matters. The following points summarise some of the conference's key events and topics -

- **Government information sharing:** Data Protection Commissioners deliberated on the topic of government information sharing. The conference acknowledged that governments around the world are increasingly seeking to break down public sector information and organisational silos to drive commercial innovation, disseminate knowledge, enhance public services and seek cost savings and efficiencies. However, the conference emphasised the need for governments to ensure that appropriate controls are implemented to protect personal data, prevent discrimination and manage risk. During the closed session, participants heard from expert speakers who explored both the positive and negative sides of data sharing, such as KPMG's Director for Public Sector Technology and Transformation, the Director of the Centre of Excellence for Information Sharing UK, and the Director General of the Estonian Data Protection Inspectorate.
- **Maximising a DPA's effectiveness:** Organised and led by the Centre for Information Policy and Leadership, a discussion was held on how data protection authorities can maximise their effectiveness. Amongst the features highlighted during this discussion were the need for regulators to adopt a risk-based approach to regulatory activities, the importance of providing information and advice to organisations, and the value of creating constructive relationships with stakeholders.
- **Working groups:** during the conference members of the Division were also involved in "side events" such as the Commonwealth Thread Network meeting that gathers the Data Protection Authorities from Commonwealth countries, and the GPEN meeting which is a platform that regulators use to cooperate and collectively carry out enforcement action or investigations.
- **Resolutions:** The conference adopted three resolutions - 1) Resolution on Data Protection in Automated and Connected Vehicles. Whilst recognising the benefits of automated and

connected vehicles, the conference highlighted the need for cyber security and data protection and called upon all relevant parties to ensure that the rights of individuals are fully respected and taken into account at every stage in the creation and development of new devices and services in this field. 2) Resolution on Collaboration between data protection authorities and consumer protection authorities for Better Protection of Citizens and Consumers in the Digital Economy. 3) Resolution on exploring future options for International Enforcement Cooperation. The conference recognised that international enforcement cooperation has been identified as important in addressing the challenges presented by the proliferation of global data flows, which can also be of significant cultural, social and economic benefit in the digital society. Whilst tools have been developed to facilitate international enforcement cooperation, the conference resolved to continue to encourage efforts to bring about even more effective cooperation in cross-border enforcement in appropriate cases.

#### **viii. Workshop on Delivering Accountability under the GDPR, Dublin, January 2018**

The Centre for Information Policy Leadership (CIPL), in collaboration with the Irish Data Protection Commissioner, hosted a practical workshop addressing how organisations can deliver accountability under the GDPR.

A member of the Division attended the event, which highlighted data protection measures to implement and demonstrate accountability in practice, through interactive discussions and presentation.

The event saw the attendance of over 400 participants from various organisations and data protection authorities. Amongst the expert speakers, were Mr Pat Green (Minister of State for Trade, Employment, Business, EU Digital Single Market and Data Protection), Mrs Helen Dixon (Data Protection Commissioner for Ireland), and Mrs Bojana Bellamy (President of the Centre for Information Policy Leadership).

Various accountability frameworks were showcased throughout the workshop and highlighted how these can contribute to the development of ethics and values within organisations.

#### **ix. Commonwealth Data Forum, Gibraltar, February 2017**

The Commissioner and the Head of the Division actively participated as expert speakers in a 2-day forum organised by the Commonwealth Telecommunications Organisation. This forum was held at the University of Gibraltar and focused on maximising opportunities and managing risks in the use of developing technologies and data.



## **Regulatory Matters**

The following is an outline of the regulatory matters in which the Division has been involved in for the period 2017/18.

#### **i. Register of Data Controllers**

The DPA requires the Commissioner to maintain a register of data controllers. The Register contains details of data controllers in Gibraltar, including contact details and details pertaining to the processing operation of personal data carried out by the data controller.

During the period 2017/18, in total 146 new applications for registration or changes to existing applications were received. This equated to a revenue of £1,360.00.

## ii. Measured Activity

Amongst the key activities of the Division's regulatory functions are inbound enquiries, investigations and inspections.

### • Inbound Enquiries

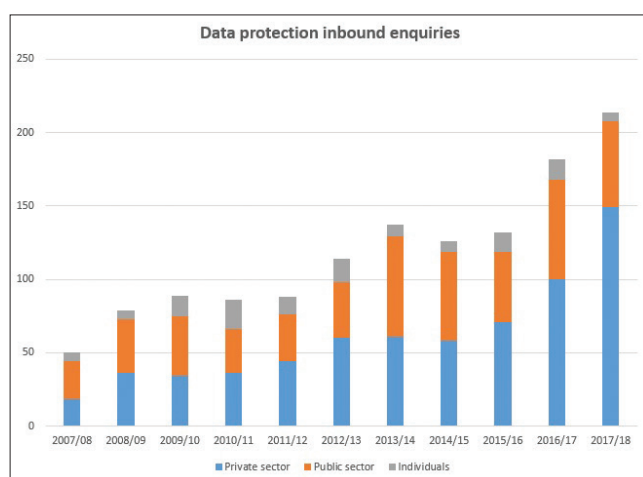
This year, the Division saw a significant increase in inbound enquiries when compared to last year's total of 184. This year the total number of inbound enquiries was 224, representing an increase of over 20%.

Inbound enquiries from the Public Sector: 59

Inbound enquiries from the Private Sector: 149

Inbound enquiries from the Individuals: 6

Notably, there was a decrease in the number of enquiries from public sector bodies and data subjects. However, there was a 46% increase in queries from private sector organisations, suggesting increased compliance efforts in this sector. The following graph illustrates the trends in inbound enquiries received by the Division during the past ten years and illustrates this year's significant rise. The increased work in this area highlights the Division's importance as a point of reference for organisations and the public.



### • Investigations

Under section 25 of the DPA, the Commissioner is empowered to carry out investigations to ensure compliance with the DPA, irrespective of whether a complaint has been made. An investigation is any process which sees the Division taking action either as the result of a complaint or as a result of information obtained as part of the day to day function of the Division and which raises doubts as to whether the DPA is being complied with.

"Action" in this case may range from the making of an enquiry to a data controller in order to determine compliance with the DPA, to the issuing of an Information or Enforcement Notice under sections 26 and 27 of the DPA. By applying this formula, an investigation is different from an inspection in that an inspection may be undertaken without a complaint or doubt about compliance existing. Investigations and inspections, however, are commenced by virtue of the powers granted to the Commissioner under section 25 of the DPA.

The period 2017/18 saw the Division complete 29 investigations, which are summarised in the table opposite.

Data Controller	Data Protection concern	Investigation outcome
Lottoland Holdings (Gibraltar) Limited	Sending Direct Marketing Emails without the consent of individuals	Lottoland Holdings (Gibraltar) Limited instigated the sending of the Direct Marketing Emails to individuals in breach of regulation 23 of the Communications (Personal Data and Privacy) Regulations 2006.  Lottoland reviewed their arrangements to ensure compliance with data protection and privacy laws
Care Agency	Failure to comply with a Subject Access Request	No contravention identified
HM Customs Gibraltar	Failure to provide the public with adequate notice when using CCTV	HM Customs Gibraltar did not provide appropriate notice to the public about its use of a CCTV camera at the frontier, in contravention of 6(1)(a) of the DPA.  HM Customs reviewed their arrangements to ensure compliance with data protection
Mons Calpe Mews Management Limited	Failure to provide the public with adequate notice when using CCTV	Mons Calpe Mews Management Limited did not provide appropriate notice to the public about its use of CCTV cameras, in contravention of 6(1)(a) of the DPA.  Mons Calpe Mews Management Limited reviewed the arrangements to ensure compliance with data protection
International Commercial Centre Management Limited	Failure to provide the public with adequate notice when using CCTV	The International Commercial Centre Management Limited did not provide appropriate notice to the public about its use of CCTV cameras, in contravention of 6(1)(a) of the DPA.  The International Commercial Centre Management Limited reviewed their arrangements to ensure compliance with data protection
Grand Home Care	Failure to comply to with a Subject Access Request	By not accepting a Subject Access Request submitted via email, Grand Home Care failed to comply with section 14 of the DPA  Following the Commissioner's engagement with Grand Home Care, Grand Home Care progressed to engage with the individual to comply and resolve her request
Grand Home Care vs Individual P & MedDoc Healthcare Ltd	An employee obtaining and subsequently disclosing personal data without appropriate consent and/or authorisation  An organisation obtaining personal data unlawfully	Allegation that Individual P, during his employment at Grand Home Care, obtained personal data about Grand Home Care's employees without the consent and/or authorisation of Grand Home Care and subsequently disclosed it to MedDoc Healthcare Ltd. It was further claimed that MedDoc Healthcare Ltd used the said information to contact Grand Home Care employees for recruitment purposes  No evidence was provided that showed that Individual P the and/or MedDoc Healthcare Ltd processed personal data in breach of the DPA
Office of the Deputy Chief Minister	Lack of measures to ensure the appropriate control and protection of personal data captured by a CCTV system as per section 6 of the DPA	A CCTV system was installed by OSG Security under the instructions of the Office of the Deputy Chief Minister, without the implementation of appropriate management and control to protect personal data  The CCTV was installed and used in contravention of the DPA, in particular, section 6 relating to Data Quality and Security  Following the Commissioner's intervention, remedial action was taken and the CCTV system was transferred to HM Customs Gibraltar for it to be used for law enforcement purposes
Gibraltar Air Terminal Limited, Borders and Coast Guard Agency, and Employee Y	The processing of personal data by an employee, without the consent and authority of the data controller (employer)	An employee of the Borders and Coast Guard Agency committed a breach of the DPA by obtaining and disclosing the images of a CCTV system managed by the Borders and Coast Guard Agency, on behalf of Gibraltar Air Terminal Limited



		<p>Additionally, Gibraltar Air Terminal Limited who was the data controller of the CCTV footage, was found to contravene the DPA for not having appropriate organisational and security measures in place to prevent personal data from being accidentally or deliberately compromised</p> <p>Following the Commissioner's intervention, Gibraltar Air Terminal Limited implemented additional security measures to protect the personal data processed by their CCTV systems</p>
Online gambling operator	Self-notification of data breach by online gambling operator	<p>The operator was found to have contravened the DPA for not having appropriate organisational and security measures in place to prevent personal data from being accidentally or deliberately compromised</p> <p>The operator promptly engaged a third-party organisation to carry out an information security review of its arrangements and implemented an action plan to improve its security measures</p>
Oxford Learning College	Failure to comply with a Subject Access Request	<p>Oxford Learning College deleted personal data that was subject of an access request submitted by an individual</p> <p>The Commissioner instigated court proceedings against Oxford Learning College for unlawfully deleting the Complainant's personal data despite being bound to comply with his subject Access Request</p> <p>At the court hearing, Oxford Learning College pleaded guilty and were fined £1,000</p>
Boylesports (Gibraltar) Limited	Failure to comply with a Subject Access Request	<p>Boylesports (Gibraltar) Limited failed to comply with a Subject Access Request in accordance with section 14 of the DPA</p> <p>Following the Commissioner's intervention, Boylesports (Gibraltar) Limited provided the Complainant with the information requested in the SAR</p>
Cassava Enterprises (Gibraltar) Limited	Failure to comply with a Subject Access Request	<p>Cassava Enterprises (Gibraltar) Limited failed to comply with the Subject Access Request in accordance with section 14 of the DPA</p> <p>Following the Commissioner's intervention, Cassava Enterprises (Gibraltar) Limited provided the Complainant with the information requested in the SAR</p>
Private company and others <sup>5</sup> .	An organisation processing personal data on behalf of other organisations without an appropriate contract in place to protect the personal data	<p>An organisation provided payroll and other services to several organisations, which involved the processing of personal data by the former organisation on behalf of the latter organisations. The processing was conducted without an appropriate contract to ensure the security of the processing</p> <p>All organisations were found to have contravened the DPA for the processing of data without an appropriate contract in place</p> <p>Following the Commissioner's intervention arrangements were reviewed and contracts were implemented</p>
Vueling Airlines SA	Unsolicited direct marketing via email	<p>The direct marketing related to an organisation established in Spain. As a result, the matter was referred to the Spanish Data Protection Regulator under Article 28 of Directive 95/46/EC</p>
Gibraltar Health Authority	Processing personal data without appropriate security measures	<p>As per the scholarship awards contract that university students enter into with the Department of Education, information about students undertaking medical studies was shared with the Gibraltar Health Authority</p> <p>However, the data shared was processed by the Gibraltar Health Authority without appropriate controls in place to ensure that it is processed responsibly and securely within the Gibraltar Health Authority</p>

		The Gibraltar Health Authority was found to have processed the data without appropriate organisational and security measures in place to prevent personal data from being accidentally or deliberately compromised
Gibraltar Joinery and Building Services Limited	Failure to comply with a Subject Access Request	Gibraltar Joinery and Building Services Limited failed to respond and comply with a Subject Access Request as required by section 14 of the DPA  Following the Commissioner's intervention, Gibraltar Joinery and Building Services Limited issued the requester with an appropriate response
A bank <sup>6</sup> .	The processing of personal data by an employee, without the consent and authority of the bank  Processing personal data without appropriate security measures	An employee of a bank committed a breach of the DPA by obtaining and disclosing banking information relating to one of the bank's customers  The bank was found to have contravened the DPA by not having appropriate organisational and security measures in place to prevent personal data from being accidentally or deliberately compromised  The bank reviewed their arrangements to improve data protection compliance and minimise the risk of future contraventions of the DPA
BetVictor Limited	Processing of personal data for longer than necessary and without appropriate security measures	A complaint instigated an investigation into the security measures in place at BetVictor Limited  No contravention of the DPA was identified
MedDoc Healthcare	Failure to comply with a Subject Access Request	MedDoc Healthcare failed to comply with the Subject Access Request in accordance with section 14 of the DPA  Following the Commissioner's intervention, MedDoc Healthcare provided the requester with the information requested in the SAR
Online gambling operator	Self-notification of data breach by online gambling operator	The operator was found to have contravened the DPA by not having appropriate organisational and security measures in place to prevent personal data from being accidentally or deliberately compromised  The operator undertook an information security review of its arrangements and committed to take corrective action to improve its security measures
Family A vs Family B	CCTV unlawfully capturing neighbours property	It was found that a CCTV system installed by Family A captured images beyond their property, including areas of Family B's property. Therefore, the CCTV collected personal data in contravention of section 6(1)(c)(iii) of the DPA and did not comply with the conditions for the legitimate processing of personal data in section 7 of the DPA  Following the Commissioner's engagement Family A took corrective action by, adjusting the positioning of the cameras, and erasing footage collected prior to their adjustment  Family B have lodged an appeal with the Magistrates' Court against the Commissioner's decision to accept the corrective action
Ibex Insurance Services Limited	Recording telephone conversations without providing appropriate notice	The investigation found that Ibex Insurance Services Limited had appropriate procedures in place to notify individuals, in advance, about the recording of phone calls  No contravention was identified
Lottoland Holdings (Gibraltar) Limited	Failure to comply with a request for the erasure of personal data	The investigation found that the organisation was not required to delete information as requested by the data subject, as the information had to be retained for the purposes of complying with a legal obligation

		However, when refusing the request, Lottoland Holdings (Gibraltar) Limited should have informed the data subject that they had a right to complain to the Commissioner as per section 16(4) of the DPA
Clifton Management Services Limited & Canis Nominees Limited	Failure to comply with a Subject Access Request	No contravention of the DPA was identified – the complainant did not cooperate to progress with the investigation
Royal Gibraltar Police & Gibraltar Police Authority	Unlawful disclosure of personal data	The Royal Gibraltar Police and the Gibraltar Police Authority both disclosed sensitive personal data in their respective annual reports, in contravention of the DPA  Corrective action was taken to mitigate the risks of the disclosure and the risk of future occurrences
32Red Ltd	Unsolicited Direct Marketing via email	No contravention of the DPA identified
Gibraltar Car Parks Limited	Failure to comply with a Subject Access Request	Gibraltar Car Parks Limited failed to comply with a Subject Access Request and breached section 14 of the DPA  Following the Commissioner's intervention, Gibraltar Car Parks Limited provided the requester with the information requested in the SAR
Gibraltar Defence Police Federation	Unlawful disclosure of personal data	Information submitted in a complaint was reviewed, however it was determined that there was no breach of the DPA and the case was closed
WHG (International) Limited	Failure to comply with an Enforcement Notice	An investigation concluded that WHG (International) Limited processed personal data using cookies, in breach of Regulation 5 of the Communications (Personal Data and Privacy) Regulations 2006  The Commissioner issued an Enforcement Notice requiring WHG (International) Limited to take corrective action to ensure compliance. The organisation did not comply with the Enforcement Notice and the Commissioner is seeking compliance

### iii. Enforcement action

The investigations listed in the foregoing were predominantly instigated by the Division on receipt of a complaint. The Commissioner's actions when a contravention is identified is subject, and proportionate, to the circumstances of each case. In most cases during the period reported on, data controllers cooperated and resolved to review their arrangements to ensure compliance with the DPA and in accordance with any requests from the Commissioner.

In the more serious cases, the Commissioner would ask the data controller to sign an undertaking where the data controller commits to carry out specific tasks to improve compliance. In circumstances where a data controller does not satisfactorily cooperate with the Commissioner's requests, the Commissioner would use his enforcement powers by issuing an Enforcement or Information Notice and, if necessary, instigate court proceedings. The following actions were taken this year:

One Information Notice was issued in an investigation that is not reported on in the foregoing as it remains ongoing. The case concerns the alleged disclosure of a patient's medical data by St Bernard's Hospital.

One Enforcement Notice was issued to WHG (International) Limited requiring the organisation to take corrective action to ensure compliance regarding its use of cookies.

### iv. Inspections

In order to monitor compliance with the DPA, the Division carries out an inspection programme during the course of the year. An inspection can be carried out by virtue of section 25 of the DPA and its aim is to check data controllers in order to ensure their compliance with the various aspects of data protection.

Due to the introduction of the GDPR, the Division focused more of its resources towards the production

of GDPR guidance. However, the Division conducted general inspections of the following organisations:

- The Office of Fair Trading
- McDonald's Restaurant
- Bellwin Homes
- Century 21
- BFA Estate Agents
- NP Estates

In addition to the above, a Focused Inspection was carried out of the Primary Care Centre's information security arrangements. In this regard, it is important to note that whilst general inspections are an overall high-level assessment of an organisation's data processing activities, a Focused Inspection is a detailed assessment of a particular area of an organisation's processing operations. The results of the Primary Care Centre's Focused Inspection are expected to be reported on during third quarter of 2018.

A preliminary report has been issued to the Primary Care Centre outlining the Commissioner's initial views on the PCC's security arrangements in relation to data protection. In summary, the preliminary report identified several concerns with regards to the Primary Care Centre's compliance and requested further action and information from the Primary Care Centre. The investigation is therefore ongoing

## v. Data Protection Guidance

During the period reported on, the Division issued four guidance notes in relation to the GDPR

to assist organisations and facilitate a smooth transition to the data protection standards required under the GDPR. The production of guidance is an area that has been given greater priority by the Commissioner to assist organisations in their efforts to comply with the GDPR. During the past year, the Division published GDPR guidance notes on the following topics:

- The Lead Supervisory Authority
- Data Protection Officer
- Data Protection Impact Assessment
- Data Portability

## vi. Control Your Privacy Campaign

The Division's Control Your Privacy campaign entered

its fifth year since its launch in January 2014. The campaign involves a combination of activities, which can be summarised as comprising of an awareness raising program for school students, a social media campaign, an awareness raising event in town, and workshops for organisations.

### a) Awareness raising programme for school students

A campaign for schools has progressively developed to establish a yearly awareness raising framework involving middle and comprehensive schools in Gibraltar. In this respect, members of the Division attend the schools to deliver presentations to students, followed by a question and answer session. Students are also asked to complete a privacy survey. This year the Division recorded the participation of around 800 students between the ages of 11 and 18.



### b) Social Media Campaign

The Division uses the Authority's social media platform to disseminate advice and information, and engage with the public. Further to ad-hoc advice and social media messages based on topical matters, the Division has developed specific social media campaigns that run for a number of weeks, which focus on a particular subject. The Division carried out social media campaigns on the following topics:

Data Protection Impact Assessments  
 Data Protection Officer  
 Assess Your Data Protection Compliance  
 Data Protection CCTV  
 Know Your Data Protection Responsibilities  
 Know Your Data Protection Rights  
 Rights Of Individuals Under GDPR



### c) Data Protection Day

Following a practice established in previous years, the Division holds an annual Data Protection Day at the Piazza. The event is scheduled to take place at the end of May 2018 to coincide with the introduction of the GDPR.

### d) Workshops for Organisations

In addition to the activities mentioned in the foregoing, the Division also arranges data protection workshops, where the Division delivers a presentation followed by a question and answer session. The workshops provide an overview of data protection law and are usually arranged at the request of an organisation that wants to train or raise data protection awareness amongst its staff.

This year, the Division held the following workshops with the Royal Gibraltar Police, Land Property Services, the Bassadone Group, the Bland Group, the Gibraltar Association of Compliance Officers and the Gibraltar Branch of the Chartered Institute of Personnel and Development.



### vii. The Opt-Out Register for Fax and Telephone

In 2013 the Commissioner launched the opt-out register for fax and telephone based on provisions found in the Communications (Personal Data and Privacy) Regulations 2006. This service is available to any individual or company who does not want to receive direct marketing calls and/or faxes.

No new entries were recorded this year. The number of registered entries remains at 7. The low numbers on the register together with the infrequent complaints received in respect of unsolicited marketing calls, suggests that where organisations in Gibraltar use direct marketing calls as part of their operations, they do so using compliant and appropriate controls. There is no evidence to suggest otherwise.

# Broadcasting



# Introduction

The Broadcasting Division's role and duties are contained in the Broadcasting Act 2012 (the "Act"). The Division's main responsibilities are to grant and enforce licences to broadcasters, to regulate matters on broadcasting standards, to issue codes of practice and to encourage the promotion of media literacy.

There are currently two radio broadcasters and two television broadcasters in Gibraltar. The radio broadcasters are Radio Gibraltar, which has a long history and has been providing a regular service since 1958, and the British Forces Broadcasting Service ("BFBS"), provided by the Services Sound and Vision Corporation ("SSVC"), and has been broadcasting in Gibraltar since 1961.

The Gibraltar Broadcasting Corporation ("GBC") is the sole public service broadcaster and was established in 1963 with the amalgamation of Gibraltar Television and Radio Gibraltar. GBC currently provides a digital television broadcasting service on DVB-T and analogue radio services on MW and FM, and since December 2012, digital audio broadcasts on DAB+.

The second television broadcaster also transmitting from Gibraltar's Digital Terrestrial Television platform is Al-Jazeera Media Network. Al-Jazeera Media Network is currently broadcasting a 24-hour English-language news and current affairs television channel.

The Division does not only licence and regulate these broadcasters but is also responsible for providing guidance to consumers and other users of the broadcasting services in Gibraltar. The Division has continued this year with the Media Literacy Awareness Campaign and has delivered multiple presentations at both comprehensive schools.

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## International Participation

Participation at international meetings is invaluable to the development of best practices in the regulation of broadcasting standards. Such events are fundamental to the Division as they provide an excellent opportunity to network with regulators

from other jurisdictions. Most importantly they provide robust platforms for regulators and industry experts to standardise, complement and more importantly address the challenges faced by the world of broadcasting regulation.

### i. Forum for Small Regulatory Authorities in Isle of Man, May 2017.

Gibraltar initiated these meetings in 2013 and they have proven to be very useful. This year the 4th Forum for Small Regulatory Authorities meeting was hosted in May at the Isle of Man, and a range of topics were discussed, such as broadcasting, spectrum planning and auctions and telecommunications issues. The forum also provided an opportunity to discuss the potential issues of BREXIT.

The first session addressed the main broadcasting issues of media literacy, FM and DAB radio, and the new AVMS Directive. A representative from the Division gave a presentation on the importance of media literacy and on how the Authority had started an awareness campaign targeting local secondary schools.

The preliminary results of the radio audience survey conducted in Gibraltar were also shared with the delegates and emphasis was made on how small jurisdictions also follow the main European trends where radio was still a popular and reliable source of entertainment, news and information but the younger generations were less likely to listen to the radio.

The meeting also discussed the AVMS Directive and focused on the changes and how these would affect all the participants.

### ii. 45th European Platform for Regulatory Authorities Meeting ("EPRA"), Edinburgh, May 2017

EPRA is the oldest and largest network of broadcasting regulators in Europe. EPRA meetings take place twice a year and the Authority has been a member of this platform since 2006. These meetings provide an excellent opportunity to exchange information and discuss best practices with other European authorities facing similar regulatory issues.

The 45th EPRA meeting was hosted by the UK regulator, Ofcom in Edinburgh in May 2017. The



meeting was well attended with 158 participants from 43 European countries.

Two members from the Authority attended the event, where a variety of topics were presented during the first plenary session entitled “News in the Digital Age”. A panel of expert speakers discussed the changing environment and highlighted that in many countries trust in news and media was quite low and that “Fake News” was often wrongly defined and should be considered “fabricated news on purpose”.

BBC and Facebook representatives also discussed their individual understanding of their own role in the dissemination of information and what constitutes editorial activity in this context.

The second plenary session on “Promises and challenges of Digital Disruption” opened up a new wave of discussion on the potential issues of diversity by new emerging technology that use algorithms to track and provide recommendations to viewers. The changing media world is experiencing a shift from mass media to personalised media and there are concerns about filter bubbles and information intermediaries, and the potential negative impact on democracy.

### iii. Cullen International Audiovisual Regulation Course, Brussels, June 2017

A member of the Division attended a 2 day course on “Mastering European Audiovisual Regulation”. The course provided an in-depth analysis of the EU architecture and the proposed amendments to the AVMS Directive. It also covered the topical issues of advertising, new digital platforms, net neutrality and copyright. The different approaches from across the EU were thoroughly covered and the 20 participants from 10 different countries discussed how they each dealt with different issues and exchanged ideas.

### iv. 46th EPRA Meeting, Vienna, October 2017

The 46th EPRA meeting held in Vienna, was held in October 2017 at the invitation of the Austrian regulator, KommAustria. There were a total of 134 delegates representing 50 EPRA members from various European countries.



Two members of the Division attended this event which focused on news in the digital age and the challenges of digital disruptions with a special focus on minor’s advertising media literacy in the digital age.

### v. 19th Mediterranean Network of Regulatory Authorities (“MNRA”) Plenary Assembly Marseille, November 2017

At the opening of the meeting, the outgoing President, handed over the presidency of the network for a year to Olivier Schrameck, president of the French CSA. The meeting was attended by representatives of 19 member authorities from 17 countries on the 20th anniversary of the network.

The general theme of the Plenary Assembly was “regulation to foster social cohesion within the digital environment”.



A member of the Authority attended this meeting and participated in the discussions on the following main topics:

- 1) The adaptation of audiovisual regulation;
- 2) Security and the media;
- 3) Media literacy and the protection of minors, and
- 4) Diversity in the media.

At the end of the meeting, the MNRA unanimously adopted the Marseilles declaration “For an overhaul of the audiovisual regulation in the digital environment”.



The member authorities are committed to working for an audiovisual regulation adapted to the digital age and its democratic requirements, especially its objective of social cohesion.

## Regulatory Matters

The following is an outline of the regulatory matters which the Division has been involved in for the period 2017/18.

### i. Measured Activity

#### a) Inbound Enquiries

Part of the work the Division does is to offer advice and provide guidance to broadcasters and to the public. This year, the Division has received many enquiries from other national regulatory authorities in Europe. Most of these enquiries deal with matters relating to the Authority's codes of practice, in particular, the Audiovisual Commercial Communications Code ("ACCC").

Additionally, throughout this reporting period, the Division has addressed several enquiries from broadcasters and the public alike. These range from advice on programme standards and commercial communications, to general information concerning applications for television and/or radio licences.

#### b) Monitoring

The Division has continued with its quarterly reviews of locally produced programmes as part of the on-going monitoring exercise to determine whether the rules contained in the Programme Standards Code, as well as the ACCC, are being applied correctly.

The Division is pleased to note that those monitoring exercises have shown that the public service broadcaster, GBC, is complying with the Authority's codes of practice. GBC has actively consulted the Division, on various occasions on regulatory matters regarding some of their television programmes and advertisements in order to be certain that no compliance issues arise.

### ii. Codes of Practice

In accordance with section 22(1) of the Act, the Authority has a duty to publish and review codes of practice on any issues in respect of broadcasting standards, taste and decency, accessibility to the disabled, the advertising of products to children and other such issues deemed of significant importance to the users.

#### a) Programme Standards Code

In July 2017, the Division reviewed and updated the Programme Standards Code that was originally published on the 5th May 2015.

The changes to the Code, published on 5th July 2017, were carried out to streamline the advice given to broadcasters, as well as viewers and listeners, about the standards they can expect from local broadcasting services. The focus was mainly on the watershed, and amendments were made to better explain the concept. Additionally, the definition of "children", as contained in the Code, was expanded and made less ambiguous in an effort to provide regulatory certainty.

#### b) Public Consultation – Code on Objectivity, Impartiality, Accuracy and Undue Prominence

The Authority received representations from the Gibraltar Social Democrats, "GSD", political party, requesting that the Code be amended to adequately cater for the existing situation where the leader of the main opposition party was not the same person as the Parliamentary Leader.

In the interests of best practice, the Authority launched on 15th January 2018, a public consultation to determine whether a review of the Code was required, and to address the points raised by the leader of the GSD. The public consultation was open until the 29th January 2018, and at the start of the process all relevant stakeholders were notified of the consultation.

On the 12th February 2018, the Authority,

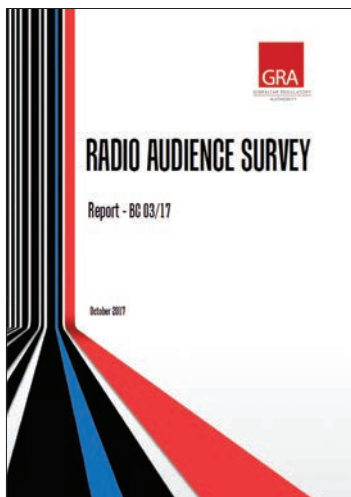


having considered the views of all respondents, published a 'Statement to Consultation' document (BC02/18) which summarised all responses received and included the Authority's conclusions.

The Authority concluded that the term "Leader of the Opposition" as referred to in the Code, was still appropriate and correct, and should not be amended.

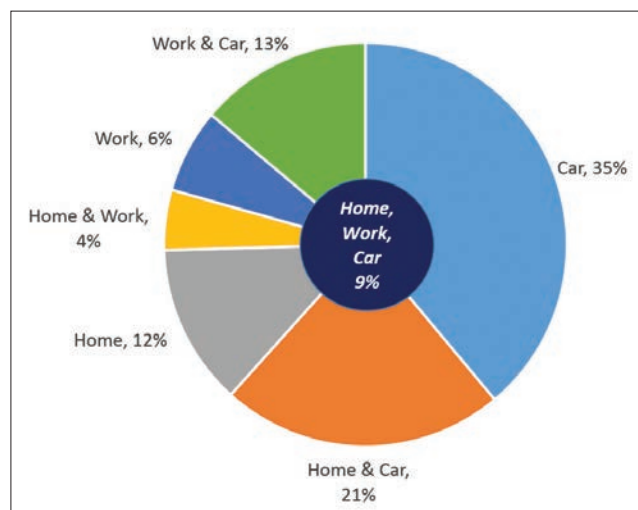
### iii. Radio Audience Survey Results

In October 2017, the Authority published the results of the Radio Audience Survey, document (BC03/17). The survey was conducted on a random basis, primarily via face-to-face interviews and a good representative sample of the adult population participated. One of the aims of the survey was to identify whether Gibraltar was following the European trend, where radio listening is on the decline, especially amongst teenagers. The Division sought the assistance of both comprehensive schools. The overall results show that the younger generations are less likely to listen to the radio.



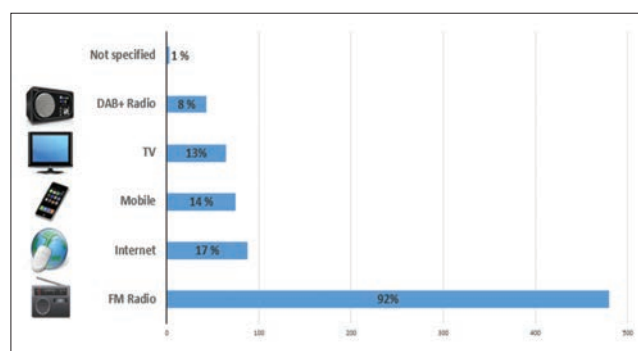
The survey results provide an accurate reflection of the listening habits of the public within an age demographic, ranging from 13 to 60+ years.

The survey not only showed that Gibraltar is following the European trend but also highlighted many interesting facts such as the amount of time spent listening, the reasons why and alternative sources of music used by teenagers. One of the questions asked in the survey was "where do you listen to the radio?" and the responses showed that 78% of the population listen to the radio in a car.



The survey results also highlighted the main reasons why people listen to the radio and how these choices differ by age or gender.

Technology has developed considerably since the first analogue radios and the Authority asked participants what devices they used to listen to the radio.



As can be seen in the graph above, FM radio is by far the most popular form of reception in Gibraltar with 92% of respondents still using analogue receivers regularly. In this respect, Gibraltar is not following the European move to Digital Audio Broadcasts (DAB). This year Norway has started the full transition and is progressively switching off their national FM transmissions in favour of DAB. In the UK digital radio continues to grow in popularity with almost 50% of listeners using DAB regularly in 2017. The Division does not however, expect FM radio to lose its popularity to DAB in Gibraltar in the near future. In Europe there is a geographical divide where DAB is being promoted and rolled out extensively in the north, but most countries in southern Europe are investing less in the switchover to digital.

The Radio Audience Survey can be found on the Authority's website on [www.gra.gi/broadcasting/documents/reports/radio-audience-survey](http://www.gra.gi/broadcasting/documents/reports/radio-audience-survey).

#### **iv. Media Literacy Awareness Campaign – Schools**

In September 2017, at the start of the academic year, the Division commenced its 'Media Literacy Awareness Campaign'. Presentations were delivered to year 9 students in both comprehensive schools. The topic for the presentation was on media messages and how commercial communications, in the form of television advertising and product placement, can influence how things are perceived on television.

The main reason for organising the media literacy presentations was to enable students to critically analyse the relationship between media and themselves in today's world by providing them with the necessary tools and resources.



Based on the feedback the Division received from teachers and students, the presentations proved to be very helpful and engaging. At the end of each presentation, students were keen to share their thoughts on the various topics covered in the presentations which highlighted the need for such awareness.

The Division will continue with the Media Literacy Awareness Campaign and will be providing further information to the public on the Authority's website. Based on the success of this year's campaign, additional presentations will be delivered to the Gibraltar College of Further Education and other schools.

#### **v. Revenue Collected**

During the period 2017/18, and in accordance with the provisions of the Broadcasting (Licensing) Regulations 2012, the Authority collected a total of £10,000 in respect of the following FM radio Licences:

£10,000 Licence Fee (FM Radio Licence)



# Postal Services



Last Collection Time  
Monday to Friday  
4.45pm  
Saturday  
11.30am  
Other Collections



POST OFFICE



# Introduction

The Postal Services Division of the Authority has responsibility for regulating the Postal Sector in Gibraltar in accordance with the Post Office Act (the “Act”) and the Postal Services (Authorisation) Regulations 2012. This is done by facilitating market entry through authorisations and licences, whilst securing the provision of a competitive universal postal service at an affordable price for all users, the result of which is a fully liberalised Postal Services market in Gibraltar.

The Authority also has a legal duty to ensure that the Royal Gibraltar Post Office (“RGPO”) as the designated Universal Service Provider (“USP”) complies with the obligations arising from the Act as well as any regulatory measures relating to the provision of the universal service. This often includes issuing guidance and directions in respect of their accounting procedures and monitoring compliance with the tariff principles established in the Act. Other functions include monitoring of operational developments, setting quality standards and more importantly monitoring performance against these standards with a view of improving quality of service for consumers in Gibraltar.

letters up to 2kgs;

- the clearance, sorting, transport and distribution of parcels up to 20Kgs;
- services for registered items;
- services for insured items;
- free services, for blind or partially sighted persons (up to 7kg);
- PO Box Rental;
- Poste-Restante;
- Certificate of Posting

As part of the universal service designation, the RGPO is also responsible for the delivery of incoming international mail to addresses within Gibraltar and collection and onward transmission of outgoing international mail.

## ii. Quality of Service Requirements

In accordance with the provisions of Section 40 (1) of the Act, the Authority has a duty to set quality standards for Gibraltar (local) mail in order to ensure the provision of a good quality universal postal service.

### a) Local Mail

The quality of service target for the delivery of local mail is expressed according to the formula (D+N) where D represents the date of deposit (before the last collection time of the day) and N is the number of days which elapse between that date and the delivery to the addressee.

In previous years, the standard for the delivery of local mail was set at 88% and this had remained unchanged for two years in order to give the RGPO sufficient time to meet these standards. However, during the 2017/18 period, this standard was increased as follows:

95% of items to be delivered in Gibraltar the day after posting (D+1)

### b) Performance Monitoring

Section 4N (4) of the Act requires independent performance monitoring of the established quality standards to be carried out. Therefore, in accordance with the provisions on the Act, for the past three

# Regulatory Matters

The following is an outline of the regulatory matters carried out by the Division for the period 2017/18.

## i. Universal Service Provider

The RGPO’s current designation is valid until July 2020 and sets out a number of obligations which the RGPO must comply with in order to meet a variety of consumer needs and ensure that efficient, reliable and good-quality postal services are available both locally and throughout the EU.

As the designated USP, the minimum range of services that the RGPO must provide, at a specified quality and affordable price, are as follows:

- the clearance, sorting, transport and distribution of

years the RGPO, with the approval of the Authority, appointed the Gibraltar Public Services Ombudsman ("GPSO") as the independent body, tasked with monitoring mail deposited at access points throughout Gibraltar and delivered locally.

The GPSO is currently monitoring the full local end-to-end network, which involves the collection of mail from various access points and subsequent processing and delivery within Gibraltar.

The chart below illustrates the RGPO's performance results in respect of next day delivery of local mail:

The GPSO's statistical results clearly reflect the fact that the RGPO is struggling to meet the current established performance target of 95% for local delivery and these low performance results also serve to highlight potential operational problems within RGPO's current system, especially in light of Gibraltar's relatively small geographical size.

#### c) International Inbound delivery within Gibraltar

Postal service providers are required to give equal treatment to both foreign and domestic mail. Therefore, the RGPO as the USP for Gibraltar has a duty to monitor its quality of service for both EU and international mail and has been part of the Global Monitoring System (GMS) since 2011. The GMS is an independent performance measurement system managed by the Universal Postal Union ("UPU").

The UPU coordinates postal policies among member nations and sets the rules and common standards (performance and technical) which all members are obliged to meet, with a view of streamlining the global network and improving quality of service for customers. Gibraltar is a member of the UPU as an overseas territory of the United Kingdom.

The GMS consists of external, independent, panellists who exchange test items between the participating countries. The test items contain a radio frequency identification "RFID" tag, which is read by an antenna installed at the RGPO sorting office where the international mail is received and processed. These items are identified and logged automatically, and this information is immediately sent to the UPU, and is also used to positively affect remuneration between postal administrations, based on performance.

However, it is important not to confuse this system which only monitors the processing and delivery times of inbound international mail once it arrives

in the sorting office, with that of the GPSO which monitors the full local end-to-end network which entails the collection of mail from access points, processing and delivery within Gibraltar.

The chart below illustrates the RGPO's performance results in respect of next day delivery of international inbound mail within Gibraltar for 2017:

The year-to-date figures received from the UPU show the RGPO's performance for next day delivery within Gibraltar as follows:

Year	2011	2012	2013	2014	2015	2016	2017
<b>UPU Target</b>	65%	75%	78%	88%	88%	88%	88%
<b>Performance Result</b>	85%	91%	85%	87%	80%	75.2%	67.4%

Together with the GPSO's results, the figures in the table above show that the RGPO has again fallen short in meeting the required performance targets, which in turn, will have a negative effect on their revenue.

#### d) EU Intra-Community Cross-Border Mail

The quality of service standard for the delivery of EU intra-Community cross-border mail is EU driven and is established in law under Section 4N (2) of the Act. The quality standard for postal items of the fastest standard category is as follows:

- 85% of items to be delivered in D+3
- 97% of items to be delivered in D+5

Due to Gibraltar's unique geographical circumstances, the above targets are not feasible because all mail (with the exception of Spain) takes a transit route via London, whereas the above targets are for direct mail exchange between European neighbours. Therefore, additional days may be required.

### iii. Dispute Resolution

All postal service providers in Gibraltar are required to have procedures in place for dealing with complaints. In the first instance, customers will be required to contact their postal service provider with their complaint and allow them adequate time to investigate and resolve any issues.

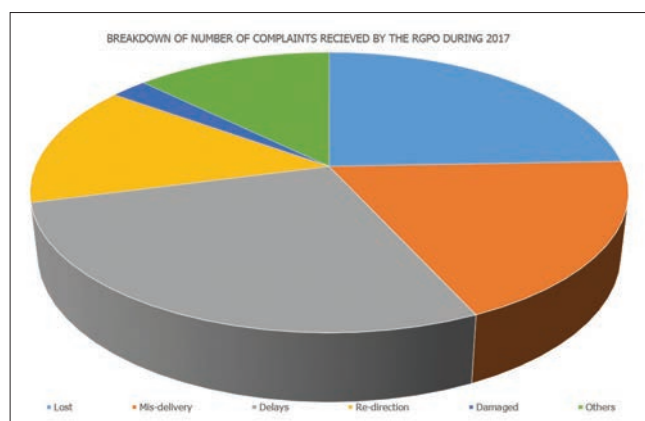
In accordance with the provisions of Section 4P (8) of the Post Office Act, the RGPO is also required to publish information on the number of complaints

received and the manner in which they have been dealt with.

The table below is a breakdown of the number of complaints received by the RGPO during the 2017 period and these figures are updated and published regularly on the RGPO's website:

Complaint Type	Number
Lost	52
Mis-delivery	40
Delays	59
Re-direction	30
Damaged	5
Others	27

Of the complaints logged in the table above, only one of these complainants contacted the Authority for advice as they were not satisfied with the RGPO's complaints process as well as the final outcome. During the period under review, the Authority also dealt with several enquiries, which were satisfactorily resolved without the Authority having to open a full investigation.



#### iv. The Register

The Postal Service (Authorisation) Regulations 2012 requires the Authority to establish and maintain a register of authorised persons; and individual licences granted by the Authority under Part I of the Act.

The Register can be inspected at the Authority's office and is also accessible on our website at the following address:

<http://www.gra.gi/postal-services/the-register>

#### v. Revenue Collected


During the 2017/18 period and in accordance with the provisions of the Post Office Act, the total amount collected by the Authority in respect of General Authorisations was £1,250.00.

The total amount collected by the Authority in respect of the Individual Licence issue to the RGPO was £5000.

This has brought the total revenue for Individual Licences & General Authorisations for 2017/18 period to £6,250.00







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**GRA**

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