

GIBRALTAR REGULATORY AUTHORITY

Annual Report 2021/2022











GIBRALTAR REGULATORY
AUTHORITY



www.gra.gi

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CEO STATEMENT



Introduction

This Annual Report of the Gibraltar Regulatory Authority (the “GRA”) is prepared in accordance with section 19(1) of the Gibraltar Regulatory Authority Act 2000 (the “Act”) and covers the period 1st April 2021 to 31st March 2022.

Gibraltar Regulatory Authority Act 2000

The GRA Board currently consists of the GRA’s Chief Executive Officer (the “CEO”), Mr John Paul Rodriguez, and three members appointed by the Chief Minister, namely, Mr Anthony Provasoli, Mr Kieran Power, and Mr Francis Lopez.

During this reporting year, Mr Paul Canessa retired after 21 years as CEO of the GRA.

Organisation and Staffing

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

Electronic Communications

The Electronic Communications Division regulates, supervises, and enforces compliance with conditions and specific obligations imposed upon providers of electronic communications networks and/or services. It engages with electronic communications providers and ensures it meets the regulatory and legal

standards, while continuously assessing the levels of competition in the electronic communication market.

During this reporting period, the COVID-19 pandemic has not been quite as impactful on the electronic communications sector as it had previously been. Most people have returned to work, schools have reopened, and the shift in network demand, which was seen in 2020 and 2021, appears to have returned to where it was prior to the pandemic.

Gibraltar has gone on to become one of the world’s top countries in terms of internet speeds which serves as an illustration of what the local electronic communications sector has become. Investment in this sector continues to drive growth and the rate at which new services are being offered suggests that the demands of local customers are being considered in the development processes being employed.

The local telecommunications market continues to grow, and end-users are enjoying a large range of electronic communications services. The effects of competition are now being felt more than ever and, consequently, the local electronic communications sector has shown further signs of improvement and innovation.

Of particular importance in this area, and the Court of Appeal judgement that was handed down in April 2019, where it ruled that the GRA had the relevant powers under Article 5 of the Access Directive to compel Gibtelecom to grant GibFibre access to its data centre, the GRA proceeded to appeal the Court of Appeal’s judgement to the Judicial Committee of the Privy

Council. The appeal was heard on 6th and 7th October 2021 and the Judgment of the Privy Council was handed down on 29th November 2021. The Privy Council found that Article 5 of the Access Directive does not provide the GRA with the power to require an operator to allow access to physical infrastructure where the relevant infrastructure could not be described as being part of the operator’s own electronic communications network or its associated facilities.

Accordingly, the GRA’s appeal was successful.

The Division will continue supervising and monitoring the electronic communications markets in accordance with its functions and objectives and improve its regulatory oversight to the benefit of consumers.

Radio Communications

The Spectrum and 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. It is responsible for administering the regulatory provision of the satellite services industry and represents the Gibraltar-based operator SES Satellites (Gibraltar) Limited (“SES-G”) at international forums, ensuring compliance with the International Telecommunication Union Radio Regulations and all other international obligations.

As part of its remit under Part VI of the Communications Act 2006, the GRA is responsible for the management and control of the electro-magnetic spectrum. Amongst its duties, the Division carries out regular inspections of

sites known to emit radio waves with a view of ensuring that they operate within the recognised safety guidelines. The Division is also responsible for the management and allocation of radio frequencies, which extend to those used by mobile operators for the provision of mobile voice and data services. The GRA also issues licences to all users of licensable equipment that emit radio waves and has powers to approve radio transmitter equipment that is to be marketed in Gibraltar.

Since 2003, the GRA has implemented a national measurement programme to ensure that electromagnetic fields from cellular base stations do not exceed the recommended International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines, a standard adopted by HM Government of Gibraltar.

In order to better the efforts to ensure that radio transmitters, including next-generation mobile network antennas, are compliant with the ICNIRP guidelines, the GRA has fixed and deployable equipment that continuously monitors electromagnetic field levels throughout Gibraltar including all spectrum currently used for mobile telephony, radar, Wi-Fi and broadcasting services, both locally and from neighbouring countries. The equipment automatically uploads the information onto a publicly available portal accessible on the GRA's website, which displays information on the locations of the fixed monitoring units and electromagnetic field measurements.

Data Protection

The Data Protection Act 2004 (the "DPA") designates the GRA, as Data Protection Commissioner (the "Information Commissioner"), to be the supervisory authority for data protection in Gibraltar. The general functions conferred on the Information Commissioner in relation to the tasks and powers of the supervisory authority are assigned under Part V and VI of the DPA.

The DPA, along with the Gibraltar General Data Protection Regulation (the "Gibraltar GDPR"), form Gibraltar's data protection regime and provide a comprehensive and modern framework for data protection in Gibraltar.

The Gibraltar GDPR for the most part mirrors the EU General Data Protection Regulation 2016/679 (the "EU GDPR"), which ceased to apply in Gibraltar on 1st January 2021. The legislation provides a set of principles that organisations, public bodies, and businesses must adhere to, as well as a series of rights for citizens over their personal information.

Gibraltar's exit from the EU means the jurisdiction is considered a "third country" for the purposes of the EU GDPR. Consequently, organisations within the EU are required to implement measures before data is transferred to Gibraltar, thereby affecting the flow of data between the jurisdictions.

The continued uncertainty resulting from the COVID-19 pandemic, particularly in the first half of the reporting period, required the Division to adapt. Testament to the Division's ability to remain flexible was the Division's successful hosting of a virtual European Case

Handling Workshop 2021, an annual feature in the calendar of European Data Protection Authorities, and typically an in-person event. The year has also seen the GRA, as the Information Commissioner, win an international Global Privacy Assembly award for the awareness-raising initiatives undertaken regarding the Division's "Education and Public Awareness" work.

During the reporting period, following complaints to our office, 31 cases have been opened by the Division. In turn, 26 cases have been closed without requiring a full investigation, although it should be noted that some of the investigations closed had been commenced in previous reporting periods.

Notably, subject access requests have, as was also the case last year, been the subject matter of several of the cases that have been closed, whilst simultaneously being one of the topics most enquired about.

The Division has again remained fully operational during another challenging year, efficiently continuing to respond to public concerns and enhance its awareness-raising initiatives.

Freedom of Information

The Freedom of Information Act 2018 (the "FOIA"), which is based on the principle that people have a right to know about the activities of public authorities, made its way through Parliament in 2018. With the addition of the Department of Education, the Human Resources Department, and the Gibraltar National Archives to the FOIA Schedule (the "Schedule") on 1st June 2021, the FOIA formally commenced.

Under the FOIA, the Information Commissioner has regulatory responsibilities and oversight of the regime, as well as an advisory role. The Division recognises the significance of freedom of information and access to information, both for individuals and public authorities alike. The Division collaborated with HM Government of Gibraltar to deliver presentations to the above-mentioned departments, prior to their addition to the Schedule. The presentations acted as a 'refresher' as the Division had previously delivered presentations to these departments in 2019.

Further to the above, and with the same advisory role in mind, the Division also created the "Handling of Freedom of Information Requests - Flowchart," which was published on the GRA website. The flowchart provides guidance on the process that applies to the handling of requests for information under the FOIA by public authorities, providing the general framework within which freedom of information requests should be processed, as well as the steps that public authorities should consider when processing the same.

Broadcasting

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

The Division specialises in providing guidance to consumers, purchasers, and

other users of broadcasting services in Gibraltar, including the public service broadcaster with whom the Division mutually cooperates in an effort to sustain its good working relationship.

Owing to the travel restrictions imposed due to the COVID-19 pandemic in the first half of the reporting year, the Division was unable to attend in-person conferences. Nevertheless, many of these conferences were adapted and replaced by webinars and virtual workshops.

Postal Services

The Postal Services Division of the GRA is responsible for the granting and enforcement of licences and general authorisations issued to postal service providers. In addition to this, the Division has the responsibility of regulating the Postal Sector in Gibraltar in accordance with the provisions of the Post Office Act 1969 (the "POA") and the Postal Services (Authorisation) Regulations 2012.

The GRA's statutory objective is to promote development and enhance competition within the local postal services sector, whilst securing the provision of an efficient universal postal service at an affordable price for all users in Gibraltar. This is done by facilitating market entry through a system of authorisations and licences, the result of which is a fully liberalised postal services market.

The COVID-19 pandemic provided an opportunity for the postal services industry to innovate and develop new strategies. Both consumers and businesses alike became more dependent on postal service providers throughout

this period, especially in their delivery of medical supplies and other essential goods.

The Division also issues guidance and recommendations to all postal service providers to ensure compliance with the requirements of the POA, whilst simultaneously ensuring the rights of users are upheld.

Higher Education Regulation

The Higher Education Regulation Division was set up to comply with Part 11 of the University of Gibraltar Act 2015 (the "UGA").

The UGA commenced on 2nd July 2015 and gave powers to the Minister for Education to designate a quality assurance authority, the Gibraltar Authority for Standards in Higher Education, and a regulatory authority, the Gibraltar Higher Education Commission.

On 31st May 2018, the University of Gibraltar (Regulation and Accountability) Regulations 2018 designated the GRA as both the Gibraltar Higher Education Commission and the Gibraltar Authority for Standards in Higher Education.

The Gibraltar Authority for Standards in Higher Education is required to establish criteria for the recognition of qualifications awarded by the University; keep and maintain a register of the University's qualifications; and promote the quality and standards of university education and training through a system of quality assurance of courses, academic programmes, and awards.

The Gibraltar Higher Education Commission oversees the quality and standards of education in

the University, compliance with the University's functions, duties, and obligations under the UGA and the use of university funds including any public funds provided to it.

A noteworthy feature this year was the University of Gibraltar arrangements to undertake the International Quality Review (the "IQR") in November 2021. The IRQ offers institutions outside the UK the opportunity to have a review done by the UK's Quality Assurance Agency for Higher Education (the "QAA"). The review benchmarked the institution's quality assurance processes against international quality assurance standards set out in Part 1 of the Standards and Guidelines for Quality Assurance in the European Higher Education Area.

The QAA concluded that the University of Gibraltar had met all 10 standards set out in Part 1 of the Standards and Guidelines for Quality Assurance in the European Higher Education Area and, as part of their findings, the review team identified four areas of particular good practice, namely the University's Quality Handbook, the module and programme evaluation processes, its close-working partnerships with other Gibraltar-based organisations and the University's effective use of externality.

The IRQ review was the culmination of three years of preparatory work which has successfully resulted in the University being fully accredited by the QAA, which is a recognised mark of excellence and should provide trust and confidence for students and the University's partners.

Cyber Security Compliance

In 2018, the Civil Contingencies Act 2007 (the "CCA") was amended to include the requirements of Directive 2016/1148 on the security of network and information systems across the EU (the "NIS Directive"). The NIS Directive was required to improve national cybersecurity capabilities of essential services throughout the EU, encourage cooperation, and promote a culture of risk management and incident reporting among the Member States.

The Cyber Security Compliance Division was set up to enable the GRA to comply with its responsibilities under the amended CCA which include, regulating, supervising, and enforcing compliance with the CCA, establishing a list of operators of essential services, establishing a list of digital service providers, investigating breaches, issuing guidance to operators of essential services and digital service providers and drawing up codes of practice.

Part 7 of the CCA makes the GRA the competent authority for the security of network and information systems in respect of operators of essential services and digital service providers. Additionally, the GRA was designated by the CCA as the single point of contact for Gibraltar. This role largely concerns cross-border cooperation where incidents affect more than one Member State.

Other Matters

i. Competition

General competition law provisions in Gibraltar are contained in the Competition Act 2020 (the "CA") and subsidiary regulations. The CA establishes the GRA as the Gibraltar Competition and Markets Authority (the "GCMA") and the GRA must discharge the functions, duties, and obligations of the GCMA provided for in the CA.

The structure of the GCMA is set out in the CA and comprises of a Chairperson and a GCMA Board. Under the CA, except where otherwise provided, the functions of the GCMA are exercisable by the Board on behalf of the GCMA. Anything that the Board is required or permitted to do under the CA can be done by a member of the Board or a member of staff of the GCMA who has been authorised by the Board to carry out said function.

The aim of the legislation is to promote competition for the benefit of consumers by encouraging businesses to offer competitive prices for better quality goods and services. Furthermore, the CA provides the GCMA with powers to investigate breaches of competition law and protect consumers from anti-competitive behaviour.

The CA mainly encompasses anti-competitive agreements between undertakings, the abuse of a dominant position, investigations, and mergers. Any conduct on the part of one or more undertakings that amounts to an abuse of a dominant position within Gibraltar in a market is prohibited if it may affect trade within Gibraltar.

The GCMA is currently

concentrating on the administrative setup and establishment of the authority in order to fulfil its functions as competition regulator.

ii. General in-house Data Protection Training

As part of their continuous professional development, GRA staff undertook a series of foundational data protection and privacy training courses which served to increase employee understanding of personal data matters and how to adequately manage the personal data they handle on a daily basis.

The training provided consisted of core modules, which were undertaken by all GRA staff members, and specialist modules, which were tailored to each employee's remit and responsibilities.

iii. GRA Website

The GRA launched its new website, www.gra.gi, in August 2021. The new design is fresh and modern, offering the public and undertakings quick and easy access to relevant information, and serve as a reference point for the various aspects of the sectors that we regulate.

Revenue and Expenditure

During the 2021/22 financial year, the total collected was £1,822,536.00 which was paid into the Consolidated Fund. This compares to expenditure (calculated on a cash basis), for all the GRA's divisions of £2,276,647.00.



ELECTRONIC COMMUNICATIONS



Introduction

The Electronic Communications Division (the “Division”) continues to regulate, supervise, and enforce compliance with conditions and specific obligations imposed upon providers of electronic communications networks and/or services (“providers” or “operators”). The Communications Act 2006 (the “Act”) sets out, among other things, the general functions, and objectives of the GRA with regards to electronic communications, as the sector rapidly evolves to ensure that consumer demand for competitive services are met.

Gibraltar’s electronic communications sector looks very different now to what it did ten years ago. Previously, customers could only purchase mobile, landline, and broadband services from one provider, whereas today, residential customers have three major network providers which offer a vast array of modern electronic communications services to suit all budgets and needs.

Gibraltar has gone on to become one of the world’s top countries in terms of internet speeds, a phenomenal rise by anyone’s standards and serves as an illustration of how dynamic the local electronic communications sector has become. Providers have arrived at a point where they can focus on providing more innovative solutions to customers in order to separate themselves from other providers. Additionally, the continued investment in this sector drives growth and the rate at which new services are being offered suggests that the demands of local customers are being

considered in the development processes being employed.

During this reporting period, 1st April 2021 to 31st March 2022, the COVID-19 pandemic, although not entirely a distant memory yet, has not been quite as impactful on the electronic communications sector as it had previously been. Most people have returned to work, schools have been open throughout, and the shift in network demand, which was seen in 2020 and 2021, seems to have almost returned to where it was prior to the pandemic.

The Division has undertaken various projects and duties including a number of policy updates as a result of the legislative package introduced in early 2021. During this time, Her Majesty’s Government of Gibraltar (“HMGoG”) introduced a new legislative package, including a revised Act and accompanying Regulations. The GRA has been assessing these changes and adapted its regulatory practices to reflect the developments. Although various new regulatory processes have already taken effect, those that have not been completed yet are currently underway.

The Division continually reviews the electronic communications sector in order to assess levels of competition to determine whether an operator is dominant in a particular market. Where a finding of Significant Market Power (“SMP”) is identified, obligations are imposed in order to alleviate any competition issues. Alternatively, where SMP is not found, obligations are removed through a process of deregulation.

The Division has also continued to designate a provider of universal services annually and, although changes have

been introduced as a result of the recent legislative changes, Gibtelecom remains the universal service provider in Gibraltar.

Additionally, the Division, along with the rest of the GRA staff, has undertaken a number of data protection and privacy training courses in order to become better acquainted with the handling, processing, and storing of personal data and the safeguards that need to be put in place to protect individuals. It also continues to contribute to the international data collection communities by completing periodic questionnaires submitted by the International Telecommunication Union (the “ITU”), which are populated by the statistical information collected from local operators as part of the GRA’s quarterly data gathering exercise.

The Division had previously committed itself to revisit quarterly face-to-face meetings with providers in 2021, however, as a result of the various levels of COVID-19 pandemic restrictions which have been in place throughout 2021, this has not been possible. The Division, however, is optimistic that this will soon subside and, despite the possibility of carrying these out virtually, the Division recognises the value of face-to-face meetings. Once restrictions and recommended practices are brought down to a level which will permit these to take place safely, the GRA would like to resume meetings where possible as a means to grant providers an opportunity to air any issues or concerns they may have in relation to their activities in the sector.

Although it has come a long way since it started posting on social media, the Division continues

to develop and find ways to more effectively engage with the public via its social media outlets, in terms of guidance and education, as well as providing valuable information for end-users to make informed choices on the services they purchase.

The Division is also committed to making itself more accessible to the general public and encourages end-users to actively engage with the team so that it may consider any issues in future. The Division is contactable via its general email address communications@gra.gi.

International Participation

i. IIC/BEREC Telecommunications and Media Forum 26- 27th May 2021

The Body of European Regulators for Electronic Communications ("BEREC") jointly hosted the International Institute of Communications ("IIC's") Telecommunications & Media Forum, an independent forum which brings together national regulators and industry in a neutral setting to debate policy issues. The topics discussed are summarised below.

a) Recovery, Resilience and Delivering the Digital Decade

A keynote speaker from the Commission's Directorate General for Communications Networks ("DG Connect") noted that a feature of the COVID-19 pandemic was how Europe had been especially

hard-hit. The overriding feeling was that Europe had become too dependent on non-European technologies, making supply chains too fragile and digital convergence was seen to be lacking. To combat this, the European Commission's digital decade policy programme was created via a framework of multi-country projects based on the four key points of education and skills, infrastructure, business, and government transformation.

The programme will address supply chain dependencies, including semiconductors, cloud and data, while acknowledging "digital" as an engine for prosperity and essential to societal resilience. The aim is to create a stronger Europe by acknowledging that data is key to improving people's lives and that data connectivity is equally as important. The digital development project, consistent with human values and digital sovereignty, has been backed by a historical scale funding of 750 billion Euros.

b) Digital Markets Act and Digital Services Act

The Digital Markets Act (the "DMA") was described as an asymmetric instrument targeted at particular practices and behaviours by large gatekeepers. The term Gatekeeper commonly refers to platforms providing online services (e.g., online marketplaces) or controlling and influencing access to online services (e.g., operating systems and app stores) and thereby exercising control over entire ecosystems, with a strong impact on competition and innovation in the digital field. Speakers outlined how the DMA was not an attempt to regulate the internet, but instead was designed to give end-users ownership of their data by restricting the gathering

and combination of data without permission.

Another described how the Digital Services Act (the "DSA"), in contrast to the trading focus of the DMA, addresses the 'information space', especially social media and search engines. Their scale and model, makes them different from conventional media, and requires a new style of regulation without preventing them from operating at scale. The DSA breaks the link between market power and conduct, getting to the heart of product design. Unlike telecoms companies, platforms have different business models, but the regulation is generic.

c) Manipulative Practices by Technology Firms

The risks from manipulative behaviours practiced by tech companies were described and defined as "imposing a hidden or covert influence on another person's decision-making", and involve the exploitation of general and individual vulnerabilities, which technology is adept at discovering. It can be easy for companies to get consent to data practices, and consumers forget that technology is impacting their view of the world. This creates the danger of a loss of autonomy, and it may not be possible for people to be sufficiently informed to give "informed consent".

d) Green Growth and Sustainability

This segment provided a discussion on finding ways to improve awareness and increase the provision of environmental information. The French and Irish regulatory bodies led the session, stating that they had seen the value of creating new platforms where stakeholders

could share knowledge and devise better tools to address their responsibilities towards green issues and encourage green investment. It was also acknowledged that radio and TV are still trusted sources of information to much of a nation's population and that regulators and industry have an important role to play if any progress is to be made on this front. Incentivising green initiatives was also discussed and this may include rewarding companies for performing well in the green space.

ii. IIC International Regulators Forum 4-5th October 2021

This year the IIC's International Regulators' Forum was hosted online by the Federal Network Agency, Bundesnetzagentur (BNetzA), the German regulatory office for electricity, gas, telecommunications, post, and railway markets on 4th and 5th October 2021. The following matters were discussed:

a) Secure Mobile Networks for the Future

Although 5G is the main topic of discussion surrounding mobile networks and mobile provision, it was clear from the outset that security is still high on the agenda when it comes to mobile policy discussions. The fact that all over the globe mobile technologies such as 5G are being used to run critical infrastructure such as transport systems, means that interoperability and security are now more essential than they have ever been, especially when compared to non-essential applications for personal consumption, which although important for service providers to sell their services to customers, is now being treated

with a degree of separation by the sector.

Currently, it is difficult to understand what future use cases for developing mobile technology might be, but security is the foundation to learning how to safely deploy those technologies. For this, a collaborative and inclusive approach must be undertaken if the sector is to succeed in deploying technologies such as 5G and 6G in the future.

b) Fibre and Connectivity

In contrast to Gibraltar and similarly sized nations, the global broadband divide is still very much real and solving the issue is no small task. However, national authorities are for the most part, committing to a short to medium term improvement in the divide between the better serviced parts of their respective countries and those which are less so. More often than not, the poorer parts of many countries tend to have inadequate or no internet access at all, with high service cost and scarce network rollout being the usual state of affairs. There are obvious benefits to improving this broadband divide, including growth of national and international business. In fact, some governments have already stepped in and created a tender for rural areas where none of the providers had been interested in rolling out networks.

c) Approaches to Online Platform Regulation

It is often the case that the two pillars of telecom regulation, market competition, and consumer protection, are viewed as separate worlds, but they share basis and goals. One speaker asserted that the markets work better if all participants, businesses, and

consumers, can make informed choices and that transparency and fairness apply to every market as guiding principles, for both consumers and businesses. Other speakers were delighted to report that online platforms had revolutionised the propagation and therefore, increased the demand for national and cultural content. However, on the same token, others acknowledged that, in some cases, laws are outdated and thus inadequate to deal with some cultural sensitivities, calling for national legislative reform in order to better deal with such issues.

iii. IIC Small Nations Regulators Forum 5th October 2021

The Small Nations Regulatory Forum ("SNRF") was established to provide regulators of small nations a tailored forum in which to share experiences of any challenges they have faced, and the solutions developed in order to overcome these. The GRA has benefited greatly in the past from having access to many regulators of small nations, however, it too has shared its own experiences with members of the SNRF on various occasions, making this community incredibly valuable to its members.

The meeting focused on the issue of digital transformation and how small regulators had prepared or indeed, how they would be rising to the challenge. Some regulators gave examples of how being small meant that they can react quickly and implement measures efficiently. Some had integrated policies for government services and interactions to be dealt with almost exclusively online, with particular emphasis on protecting the personal

information of end-users. Others had more traditional concerns relating to their national broadband networks, which although being extremely fast with Fibre-to-the-Home ("FTTH") being available, they still have hardware and security issues to overcome, backhaul issues presented by 5G, spectrum allocation, Brexit, dealing with artificial intelligence ("AI"), and other matters.

One interesting observation made, which will be hard-hitting to all small nations, is that regulators require high-level knowledge to design regulation which does not inhibit or discourage investment. Expertise in this forward-thinking sector is often hard to come by and expensive to obtain, both posing serious challenges for regulators of small nations, many of which are far larger than Gibraltar.

iv. IIC 51st Annual Conference 6-7th October 2021

The Annual Conference presents a general overview of the global concerns that members have identified. Once again, due to the restrictions presented by the COVID-19 pandemic, the conference took place virtually, allowing participants to present questions to the speakers as the discussions progressed.

a) Closing the Digital Divide

Speakers proposed that the digital divide is a mirror of all the global inequities that exist in society and that narrowing this divide is a multi-dimensional issue, which requires that we set aside our preconceived thoughts and find new ways to create a fair and resilient industry for all. A thought-provoking notion was presented, stating

that regulators have a duty of care and that the sector's needs should be driven by social justice instead of profit. Affordability of services, or lack thereof, has widened the gap between lower and middle-income countries and the responsibility falls upon regulators to narrow that gap by finding ways to increase adoption of newer technologies among those less privileged in society. An example of this is many mobile data users still being on 3G, when 4G and even 5G use is widespread.

The digital divide is also a top political priority in Europe where the objective is for all consumers to have an affordable digital connection by 2025. Comparative tools are used to maintain competitive pressure on providers and specific programmes designed to target services for people with disabilities, with regulators being in a unique position to foster the collaboration and co-operation required in the sector with which to achieve those objectives. The rural demand for connectivity was highlighted in the context of the COVID-19 pandemic, in particular how the work from home ("WFH") measures were only reserved for those with a broadband connection at home from which to work, meaning that almost 50% of the global population was left without the opportunity to WFH.

5G on the other hand, has grown faster than previous technologies, including 4G, with around 1 million new subscriptions daily during 2021 and is forecast to reach 60% coverage globally by 2026.

The creative economy and technology companies are digital accelerators according to speakers, who proposed that often, end-users will subscribe

to services in order to access content such as video-on-demand. Content distributors have also been known to work with network providers in order to optimise their networks. Bizarrely, spin-off effects are being noted, where popular content has influenced end-users to the point where they will in turn affect the sales of items associated with the content they are consuming. Some speakers even going as far as proposing to force large content producers to contribute towards the networks which their content is supplied through.

b) Regulatory Collaboration

Regulators described how they had been working with international partners to create better online safety by regulating the processes rather than the content. Some have partnered with other digital regulators to form a collaborative forum within which they pool resources to enable a more collective view and avoid duplicating work and share knowledge on matters such as privacy and competition. In fact, it is accepted that digital is an increasing part of a range of sectors such as content, communications, competition, and data protection, cementing the view that further collaboration is essential for adequate regulation to take place.

c) Platform Competition

Regulators proposed the theory that the largest platforms will need to commit to stopping unfair practices which stifle and interfere with fair competition and freedom of customer choice, with some proposing that laws must be set in advance alongside a code of conduct. However, actions need to be justified and forward-looking in

order to mitigate the risk of over-regulating.

To this end, others argued that there are risks to over-regulating also, such as preventing or slowing down economic growth. Regulatory action should be proportionate to the level of risk and platforms need clarity in legal policy as they need the flexibility to innovate without being held responsible for everything on their platforms.

d) Climate Change

Operators highlighted that, through investment in newer, more efficient network hardware, they had been able to reduce their per unit energy consumption by 90% despite data traffic increasing by a factor of ten. That said, they were positive that further advancements could be achieved with further optimisation of hardware in various other aspects of their networks. However, consumer practices were also brought up in the debate, with data optimising being the centre of this particular point. Consumers, for example, have become used to always consuming high-definition content instead of standard resolution or watching YouTube videos just for the audio content of music, with this behaviour being considered as wasteful.

e) Spectrum

Spectrum allocation is by no means a new concept and one which the GRA is very familiar with. However, some speakers were of the view that spectrum sharing is one of the most important mechanisms going forward, especially when considering that current regulation favours the incumbents, who have no incentive to share in a way that enables new entrants to

grow. On the other hand, other speakers asserted that although dynamic sharing exists, some mobile operators will refuse spectrum that is shared due to the operational implications it presents and the reduced flexibility it provides.

f) Privacy

The discussion centred around how privacy protection rules sometimes go beyond privacy and into cyber nationalisation and censorship. Some called for a global privacy standard, noting that, although there is certainty in Europe through the General Data Protection Regulation ("the GDPR"), this was not the case elsewhere. A representative from the EU said that the laws are pro data transfer, but other jurisdictions' policies are not compliant with the GDPR thus restricting data flows. However, a telecoms operator highlighted a concern that data localisation is used as a solution to other problems and does not increase security and another operator said that the debate is about balancing access to information with the right to privacy.

g) Cultural Benefits of Competition

It was widely acknowledged that the consumer is currently better off than ever before and that large networks are realising the importance of local content in order to compete. Access to local talent, production infrastructure and a strong legal framework are all important, but networks investing in this need to balance those with the financial incentives to embark on projects. The general feeling was that investing in locally produced content is positive for the local economy, but that traditional broadcasters need to invest in streaming services so that the

cycle of local talent, producing local content for locals, properly takes off.

v. IIC Telecommunications and Media Forum 30th-31st March 2022

The annual Brussels Telecommunications & Media Forum is the perfect opportunity for policy makers, regulators, and the industry to discuss key issues in the European context and share experiences and best practice with colleagues on the international stage. One member of the Division participated in the online forum in which general discussions were held on the recent implementation of the European Electronic Communications Code, the Audiovisual and Media Services Directive, the DMA and the DSA. Questions such as, what do the new European digital initiatives mean in practice for network and service providers and, how are national regulatory authorities adapting to the demands of the digital environment and cross-border, cross-sector cooperation, were asked.

The forum featured two half day debates split into four sessions each. Day one considered the environmental targets proposed by Europe and how these will be achieved in parallel to the digital evolution of the single market. Closing the digital divide and whether a regulator's connectivity toolbox is sufficient to achieve this and balancing the need for platform regulation while promoting innovation, were also hot topics discussed by international communications operators, university professors, and consultants.

Day two featured an opening by the Director General of the IIC who set the scene for the events

discussions. Interesting points of view were raised regarding strategies for data governance and AI, together with the objectives and implications of the Data Act and AI Act. In relation to public service media, the crisis in Ukraine was mentioned and how industry can combat misinformation and safeguard the freedom of journalists in this field. Finally, the session ended with talks on gaming, virtual reality, and the metaverse, and their implications on consumer harms together with a final presentation on the ethics of AI and what the future holds for us.

Regulatory Matters

i. Market Reviews

One of the Division's most established regulatory tools concerns imposing SMP obligations on a provider in markets where it has identified competition failures. There may be various reasons for those failings, such as, the absence of a second provider, imbalance of market shares, abuse of dominance, etc. The reason for intervening is to improve the state of the market to ultimately benefit consumers.

The Division aims, where it is legally bound, to stimulate the market in order to improve the products and prices on offer where they are deemed to be insufficiently innovative or affordable. In order to objectively understand the state of a market, the Division must carry out a public consultation and gather critical information concerning

that market. Based on its initial findings, the Division then proposes to either impose SMP obligations upon a provider(s), for the purpose of remedying the competitive failings identified, or, where no market failings are found to exist, consider whether it may be appropriate to deregulate and remove existing SMP obligations instead.

With the above in mind, on the 7th February 2022, the Division issued a public consultation on the retail fixed access, retail local calls, and retail international calls markets. Furthermore, in order to determine if any of these markets were susceptible to ex-ante regulation, the Division applied the three-criteria test which considers three questions regarding barriers to entry, tendency towards competition, and competition law.

The markets were defined by the Division as follows:

a) Retail Fixed Access

The retail fixed access market is concerned with the provision of high-quality access and connectivity services provided at a fixed location in Gibraltar. This market essentially covers the physical connection, normally from a home or business directly to the operators own network. This physical access connection is subsequently needed, together with the addition of certain equipment that provides a functional line, and ultimately supports the provision of retail fixed line services such as voice calls and broadband internet access. Despite this however, the retail fixed access market is solely concerned with the provision of, or availability of such access in its simplest form, despite the subsequent services that may be obtained via the same line.

b) Retail Fixed Local Calls

The retail local calls market is concerned with all calls originating locally from a fixed network and terminating locally on a fixed network. This market also includes on-net and off-net calls i.e., calls made on the same network or calls made from one network to another. This market also includes all local calls originating on a fixed line and terminating on a local mobile network.

c) Retail Fixed International Calls

The retail international calls market is concerned with all calls originating locally from a fixed network and terminating internationally on either a fixed or mobile network. There are currently three operators providing retail access, retail local and retail international calls.

These are:

- Broadband (Gibraltar) Ltd trading as (Sapphire Networks and u-mee);
- GibFibre Ltd ("GibFibre"); and
- Gibtelecom Ltd ("Gibtelecom").

In the consultation, the Division carried out an assessment of the three markets highlighted above and the Division was of the preliminary view that no operator in Gibraltar has SMP in these markets as the markets did not fulfil the three criteria test and were therefore not considered to be susceptible to ex-ante regulation, on a forward-looking basis. As such, the Division proposed to remove all pre-existing SMP obligations currently imposed on Gibtelecom in each of the three retail markets.

The Division received detailed responses and comments from

GibFibre and Gibtelecom and is currently in the process of assessing and taking these into account whilst formulating the GRA's official position. The Division will publish the relevant decision notice in due course.

ii. Mobile Out of Bundle Charges Investigation

The Division was made aware that Gibtelecom post-paid (contract) mobile customers may be charged for mobile data use at an out of bundle rate, after they have consumed 100% of their mobile data bundle. Normally, a customer who wishes for their mobile data consumption to continue after their allowance has been exhausted, requires restarting their mobile device as advised by a text message from Gibtelecom. This message also informs customers that they will be charged at 17p/MB up to their chargeable data threshold (set at £42.00), after which time customers can purchase a "bolt-on" mobile data bundle. The issue highlighted to the Division was that, on occasions, contrary to the information made available to customers in the abovementioned text message, customers were being charged out of bundle data charges despite not having restarted their mobile phones, resulting in unexpected charges.

After consulting with Gibtelecom, they confirmed that customers receive a text message upon reaching 50%, 80% as well as 100% of their mobile data. Gibtelecom also confirmed that for a mobile device, what had previously been referred to as a "restart" i.e., the switching on and off of a mobile device, could indeed also be temporarily losing and gaining network coverage, running out of battery, or even

changing network, meaning that resuming data consumption was not limited exclusively to a restart of the device as alluded to in the relevant message.

Customers are of course able to turn their mobile data off temporarily and avoid this issue altogether. Nevertheless, Gibtelecom agreed to reword the text message since it was clear that there were a variety of circumstances when a device could perform a function that would surmount to a "restart", thus providing customers with the necessary permission to continue using mobile data. The Division was satisfied with the changes carried out by Gibtelecom to inform its customers of the potential issue and ensured that these were published on the relevant terms and conditions for both, post-paid, and prepaid customers.

iii. Telephony and Broadband Voluntary Code of Practice

As outlined in previous annual reports, the Division created a Voluntary Code of Practice ("VCOP"), which among other things, was designed to motivate operators to improve their customer service standards. The VCOP ensures that all customers who purchase fixed and/or mobile telephony and broadband services from local providers who have signed up to the VCOP, receive the information under the principles set out in the VCOP. Those principles are:

1. Training;
2. Information provided to customers;
3. Detailed information on Authorised Provider websites;
4. Right to exit the contract without penalty;

5. Summary of the Code; and
6. Monitoring compliance with the Code.

After consulting with industry, GibFibre confirmed that they were interested in signing up to the VCOP and were consequently asked to provide evidence of how they were going to adopt and exercise the VCOP's principles in order to ensure compliance. On 14th May 2021, GibFibre successfully signed up to the VCOP and in doing so pledged to comply with certain principles to enhance its consumer protection measures. The Division thanks GibFibre for this initiative and hopes that other operators will follow suit in the future.

iv. Notice on Universal Service Procedure

The GRA is required, under Regulation 7(3) of the Communications (Universal Service and Users' Rights) Regulation 2006 (the "Universal Service Regulations"), to issue a Notice under section 12 of the Act in order to implement a procedure for the purpose of designating a universal service provider. The procedure must be efficient, objective, and transparent and shall not give rise to any undue discrimination against any person. On 26th July 2021, the Division published Notice C03/21 which sets out the manner in which the Division carries out its review of the designation of universal service provider and the possible obligations it could impose upon them during any upcoming reviews. In conducting such periodic reviews, the GRA considers the public consultation procedure set out in section 13 of the Act and regulation 28(1) of the Universal Service Regulations.

v. Universal Service Designation

Pursuant to Regulation 7(1) of the Universal Service Regulations, the GRA is responsible for the designation of one or more persons, for such a period as may be specified by the GRA, to comply with universal service obligations. Different undertakings can be designated to provide different aspects of universal service.

The aim of the universal services is to guarantee that basic electronic communications services, which are essential to social and economic inclusion, are available to end-users on reasonable request and at an affordable price.

The Division has been reviewing the designation of universal service provider for years and, mostly as a result of its network reach and full complement of electronic communications services across various markets, Gibtelecom has always been designated as universal service provider. The designation process involves a public consultation, which allows interested parties to make comments on the proposals made by the Division and is followed by a decision which sets out the GRA's position in relation to the universal service designation. Universal service operators are then subject to obligations such as the provision of access at a fixed location and provision of telephone services, directory enquiry services and directories, public pay telephones and other public voice telephony access points, measures for disabled users and affordability of tariffs for universal services.

Public Consultation document C04/32 was published on 28th July 2021 proposing some

changes to the previous year's designations. With a view to improve the quality of public engagement, the Division sent a copy of the consultation to various disability groups as this ensured that they were given a fair opportunity to participate in the decision-making process, in matters which directly affect them and their members.

After receiving responses from Gibtelecom, GibFibre, and the Gibraltar Hearing Impaired and Tinnitus Association ("GHITA"), the Division later published Decision Notice C06/21 on 27th September 2021. The first significant change imposed from previous years, was that the designation period would be extended to three years, from the usual annual review, meaning that this would not be consulted upon again until 2024, unless the Division deems it appropriate to do so before then. A further change was decided regarding the provision of directories, where Gibtelecom, although once again designated to provide directories, was encouraged to reduce the production of printed directories and issue digital versions instead, as long as these were accessible to everyone and the needs of consumers are satisfied. The documents can be found on the GRA website.

vi. Notice on Numbering Conventions

Section 35(1) of the Act provides that "there shall be established in Gibraltar an electronic communications numbering, addressing and naming plan to be known as the Gibraltar Numbering Plan". Furthermore, in order to permit it to carry out its functions in relation to numbering and the administration of the

Plan, Section 36(2) of the Act enables the GRA, with the consent of the Minister for Telecommunications, to adopt Numbering Conventions, "establishing procedures for the allocation of numbers, the general rules and principles concerning applications, reservations, withdrawals and other operations of the Gibraltar Numbering Plan and specific rules relating to numbers or codes within the public telephone network or other parts of the Plan."

As a result of the new legislative package published by HMGoG, the Division set out to carry out the necessary updates to Notice C05/19, on Numbering Conventions. The changes being proposed generally concerned making textual updates to the original Notice and were considered minor by the Division given that these did not impact the processes in any material way. The Division was of the view that undertaking a full consultation would be excessive and inefficient, so it opted instead to give providers the opportunity to view the proposed changes and allow them to express their views concerning those changes before the Division set out to issue and publish a revised Notice.

On 15th September 2021, Notice C05/21 on Numbering Conventions was published and sets out a set of principles and rules relating to the use and management of the Gibraltar Numbering Plan.

vii. General Authorisations

A general authorisation is required for the provision of electronic communications networks and/or services in Gibraltar. Under the terms of the

Communications (Authorisation and Licensing) Regulations 2006 (the “Authorisation Regulations”), operators are free to commence operations once a completed notification form has been received, but its operations are subject to the conditions set out in the Notice on Conditions C08/21 (“Notice on Conditions”).

As part of the continual monitoring of its internal and external processes, the Division updated its publicly available general authorisation documents. The first contains information on the Procedure for the grant of a General Authorisation (C09/21) including any exemptions from the requirement to notify, additional requirements, a description on the method of submitting a notification, the register, administrative charges, notification of amendments to a general authorisation and the cessation of a general authorisation.

The second document contains the General Authorisation Notification Form (C10/21), which applicants are required to complete and submit to the Division. The updated documents take into consideration the changes imposed with the latest legislative package issued earlier in 2021.

viii. Statistical Data

As explained in previous annual reports, the Division cannot stress enough how important and valued the collection of quarterly statistical data has become for both its long-term analyses of the local sector, as well as its influence on its day-to-day decision making, allowing the Division to assess markets almost on a real-time basis instead of pursuing information

in a reactionary way.

Historically, the Division would only have very specific statistical information available to it, usually from a period which may not have served it sufficiently, and from a previous investigation into an issue which was unrelated to the one at hand. This often meant that in order to draw an opinion, it had to engage with a provider(s) to seek statistical information with which to either support or oppose its preliminary views. This would often take providers considerable time to produce and cause them undue delay with their own day-to-day operations.

It was concluded that, although it may cause providers considerable disruption at the beginning to setup, once systems were put in place internally and producing statistics on a quarterly basis, the burden would ease over time. Fortunately, providers have made efforts to both setup the necessary systems from which to provide accurate statistical information, but also to work closely with the GRA to modify and improve the quality of the information gathered.

In consultation with the providers, the Division continues to work to fine tune the data being requested as well as developing better guidance for them to refer to. Over the years, the Division has come to realise that the production and collection of data is a complex undertaking, especially when the statistics being requested is not one which operators would ordinarily have to generate for their own internal or commercial purposes. Nevertheless, the positive working relationship it continues to enjoy with the providers has facilitated the

GRA's ability to better understand the processes involved and has adjusted its approach in order to, where reasonable, work closely with providers in order to acquire the desired information in a timely manner.

The Division would like to take this opportunity to, once again, express its gratitude to all local providers who continue to work cooperatively with the Division for the provision of statistical information. After almost six years since this exercise commenced, the catalogue of information available to the Division is substantial and the Division looks forward to developing this further in conjunction with the providers in future.

ix. ITU Questionnaires

As a result of the statistical information which it collects from providers of electronic communications on a quarterly basis, the Division is able to contribute to the ITU's global, regional and country information gathering efforts, which it uses to generate accurate and reliable statistics and analyse emerging trends in the communications sector. The ITU issues various questionnaires to National Regulatory Authorities (“NRAs”) such as the GRA, in order to develop an accurate picture of the sector in each participating nation.

The data collated includes subscriber numbers of the various services provided, the technology being used to deliver that service and volume of calls in minutes amongst others.

x. Social Media

The Division has made a

concerted effort to improve the standard of the posts it puts out on its social media outlets. During this reporting period, it has taken the time to train its staff members in the use of simple video clip producing software. These videos provide the opportunity for information to be put out in one post in a more engaging format than a simple series of images. To this end, the Division has created various video clips and images which outline a variety of topics, primarily in the form of guidance material or advice for consumers. These include videos on awareness of scam calls, communications services for those with disabilities, the GRA's responsibilities regarding electro-magnetic field monitoring and information on the telephony and broadband voluntary code of practice to name a few.

xi. Transparency and Publication of Information

Condition 7 of the Notice on Conditions C08/21 outlines the requirements imposed on undertakings regarding transparency and publication of information. To this end, providers are required to publish certain information on their websites, in a clear and comprehensible way including in an accessible format for end users with disabilities. Publication must also be effected in a specific manner in order to comply with the requirements of the condition.

Towards the end of 2021, the Division undertook the task of assessing the suitability of the information which providers had published on their respective websites concerning the

products they sell to customers.

The Division's preliminary findings indicated that certain information had not been published and that other published material was incomplete. Operators were contacted and informed of the GRA's assessment and were requested to make the necessary amendments in order to comply with Condition 7. Following a few rounds of correspondence and final checks of each operator's website, the GRA concluded that all providers concerned were no longer in breach of Condition 7.

xii. Review of Conditions

Under the provisions of the Authorisation Regulations, any person may provide an electronic communications network and/or service, as long as they have notified the GRA in advance. Operators are free to commence operations once a completed notification form has been received, but operations are subject to the conditions which may be attached to a general authorisation.

A general authorisation is the legal framework established under and pursuant to the Act, ensuring rights for the provision of electronic communications networks or electronic communications services or both, and laying down sector-specific obligations that may apply to all or to specific types of electronic communications networks and electronic communications services.

The GRA also has the power to modify conditions under the provisions of regulation 18 of the Authorisation Regulations provided that any modification is objectively justifiable in relation to the networks or services to

which the modification relates and is proportionate to what the modification is intended to achieve. Whenever the GRA intends to make a modification, it shall comply with the public consultation procedure unless the proposed modification is minor and has been agreed with the operators concerned.

On 24th December 2020, HMGoG published a new legislative package which included amendments to the Act, Communications (Access) Regulations 2006, Authorisation Regulations, Communications (Personal Data and Privacy) Regulations 2006, and the Universal Service Regulations. In line with these amendments, the GRA decided to update and streamline the conditions applicable to all authorised operators.

The Division therefore published "Review of Conditions - Public Consultation C02/21", which reviewed its procedures in accordance with the new regulatory framework. The Division, proposed to delete certain conditions and amend others by separating them into two parts. The first part dealt with the proposed conditions which may be attached to a general authorisation and part two outlined the proposed conditions which may be attached to rights of use for numbering resources.

The Division received responses from Gibtelecom and GibFibre which, for the most part, agreed with the GRA's proposals. Taking these into account, the Division published Decision Notice C07/21 imposing an amended set of updated conditions, which took immediate effect, and replaced those contained within the previous document, Notice C08/17.

xiii. Privy Council Decision on the Access Directive

Following the Court of Appeal judgement that was handed down in April 2019, where it ruled that the GRA had the relevant powers under Article 5 of the Access Directive to compel Gibtelecom to grant GibFibre access to its data centre, the GRA proceeded to appeal the Court of Appeal's judgement to the Judicial Committee of the Privy Council (the "Privy Council").

The appeal was heard on 6th and 7th October 2021.

Following the appeal, the Judgment of the Privy Council was handed down on 29th November 2021. The Privy Council found that Article 5 of the Access Directive does not provide the GRA with the power to require an operator to allow access to physical infrastructure where the relevant infrastructure could not be described as being part of the operator's own electronic communications network or its associated facilities.

Accordingly, the GRA's appeal was successful.

xiv. Operator Measures

The GRA would like to draw attention to measures put in place by local providers in support of the crisis currently unfolding in Ukraine. At the time of writing, u-mee has taken the decision to support the local Ukrainian community by providing its customers with free calls to Ukrainian landlines and mobile numbers from 5th March 2022 until further notice. However, in its statement, u-mee advised that as a result of the crisis in Ukraine, damage to networks and equipment may

impact connection and the quality of calls.

Furthermore, Gibtelecom has teamed up with the Gibraltar Red Cross by providing two donation lines so that their fixed and mobile customers can help raise funds for the people of Ukraine.

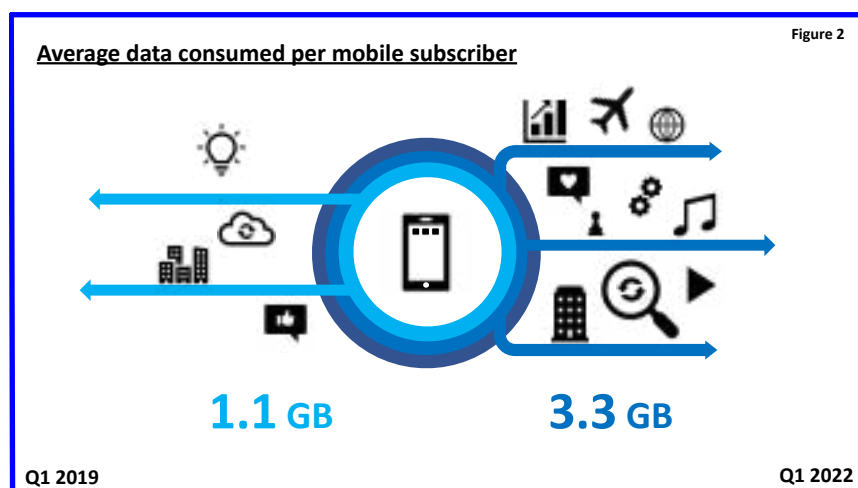
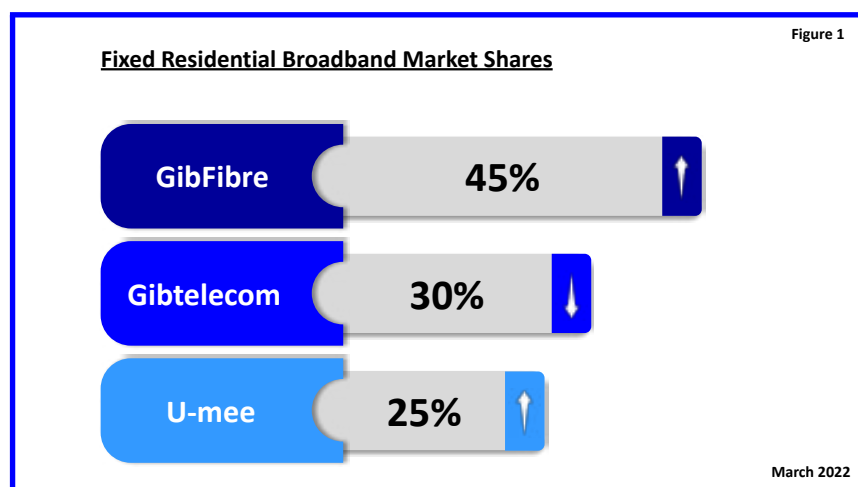
xv. Statistics and Trends

As of March 2022, the total number of broadband subscribers increased from 21,389, in March 2021, to 22,126.

Figure 1 is an illustration of the fixed residential broadband market shares in Gibraltar as of March 2022. In recent years, this market has demonstrated the most significant changes due to increased availability of competitively priced broadband

packages and bundles resulting in a substantial number of subscribers opting to purchase services from alternative providers.

Due to this, Gibtelecom has experienced a decrease of 295 subscribers which means that its fixed residential broadband market share has continued to decline from 33% in March 2021, to 30% in March 2022. Conversely, u-mee has experienced a slight increase in its fixed residential broadband market share from 24% in March 2021, to 25% in March 2022, owing to an increase of 297 new subscribers. During this reporting period, the local provider that has continued to experience the most significant growth in the fixed residential broadband market is GibFibre, who have increased their market share from 43% in March 2021, to 45% in March 2022 due to an



increase of 625 new subscribers, once again cementing their position for the third consecutive year as the majority shareholder in the local residential broadband market.

Figure 2 is a representation of the average gigabytes of data consumed per mobile subscriber. It is clear that mobile data usage trends in Gibraltar have increased notably amidst the growing demand for data services, with subscribers consuming three times the amount in March 2022 when compared to March 2019.

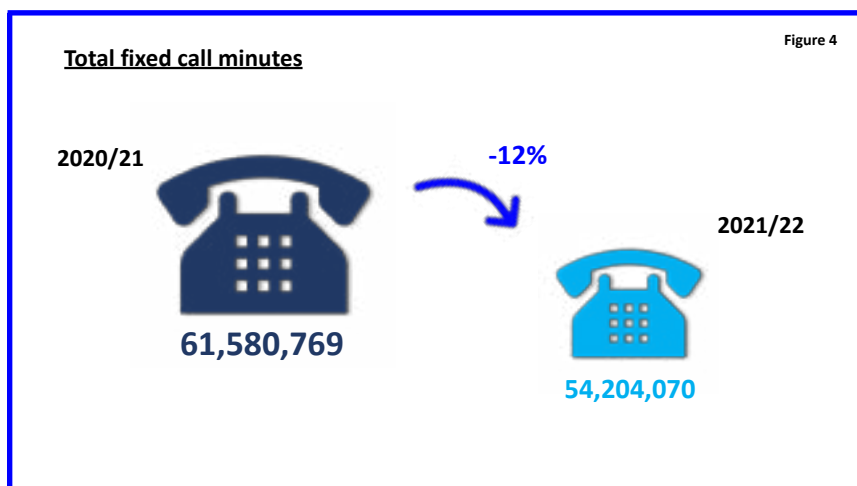
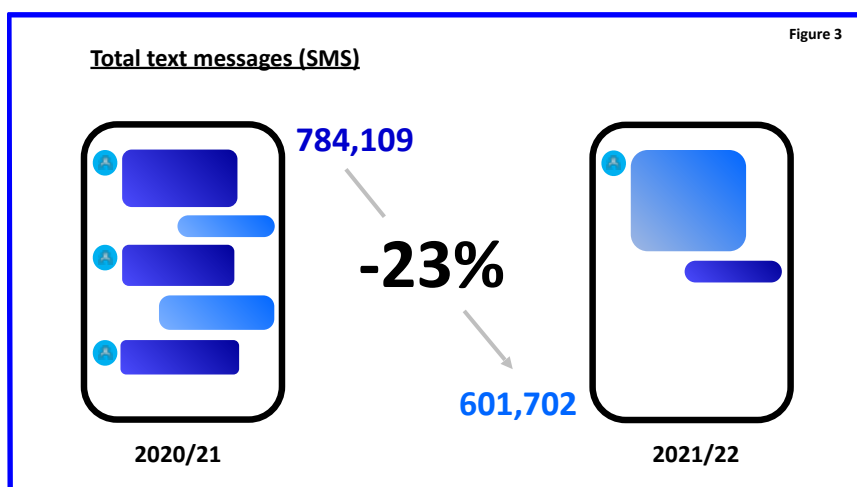
This rise in data consumption is consistent with global trends, resulting from the enhanced network performance of both 4G and 5G mobile networks, in conjunction with increased competition and operators offering larger mobile data plans to meet the needs of

users. Mobile subscribers have increased their usage of mobile applications, social media, streaming HD content and faster browsing speeds, and this is ultimately driving the surge in mobile data usage. Furthermore, this increased reliance on mobile data is having both a considerable and direct impact on other traditional forms of mobile communication and messaging, for instance, the use of SMS text messages, which have now been replaced, to a certain degree, by alternative mobile messaging services such as WhatsApp or Facebook Messenger which also include media-rich features, such as group chats, exchange of graphics or emoticons, and the ability to send audio messages. These services cost significantly less and allow consumers to chat or send messages, subject only to the limits of their smartphone or mobile data packages.

With the above in mind, Figure 3 is an illustration of the total number of traditional SMS text messages sent by mobile subscribers during the reporting year. Statistics collected by the GRA confirm that the total number of SMS text messages sent has been in constant decline since 2016. During the previous reporting period of 2020/21, 784,109 text messages were sent in comparison to the current reporting period of 601,702 messages. This represents a decrease of 23% with 182,407 fewer text messages being sent as of March 2022. This steady decline in the number of messages, does not necessarily represent a decline in the usage and sending of messages in general, but rather a shift in the mediums used to achieve this, which is clearly driven by the increased use of free internet and data-based applications that allow consumers to send and receive messages.

It is important to note, however, that despite the current trend towards alternative mobile messaging services, SMS text messages still offer the ability to communicate albeit in a more limited manner and are now included in many mobile plans.

Figure 4 represents the total number of fixed call minutes of all local operators handled during the reporting year. Statistics collected by the GRA in previous years illustrate the fact that the number of traditional fixed call minutes generated by users has in fact reduced by over 50%, again most likely attributable to the increased use of "Over the Top" (OTT) services such as WhatsApp, Facetime, Skype, and other similar applications which allow users to make free video and voice calls online. This is in line with global trends, however, during the previous reporting



period, the total number of fixed call minutes had increased by 13% which is clearly contrary to the established trend over the past five years. At the time, the GRA concluded that this unusual spike in the number of minutes generated was undoubtedly due to the COVID-19 pandemic and subsequent lockdowns imposed at a national level. This had a significant impact on usage trends with more people than ever being stuck at home or indeed working from home.

However, Figure 4 shows that there has once again been a significant decrease of 12% in the number of fixed call minutes generated between the previous reporting period and the period currently under review with 7,376,699 fewer fixed call minutes generated. This is clearly a return to the established trend described above and is also in line with the significantly reduced COVID-19 pandemic restrictions and a return to normality. Therefore, the GRA predicts that this trend will continue moving forward.

The state of competition in respect of residential broadband packages has flourished in recent years with various local operators providing a vast array of residential broadband products, ranging from ultra-high speed 2Gbps symmetric

fibre broadband to lower speed (25-75Mbps) offerings which is clearly sufficient to meet the various needs of a multitude of customers.

With the above in mind, Figure 5 shows the distribution of broadband packages in Gibraltar.

The figures collected indicate that 56% of all local residential broadband subscribers are currently purchasing a high bandwidth package with download speeds ranging from 101Mbps and 500Mbps. Conversely, only 8% of all subscribers were on a broadband package greater than 501Mbps, however, this is not to say that ultra-high speed symmetric fibre offerings are unpopular, but it is more likely these packages may vastly exceed the usage requirements of general subscribers with more modest needs that are sufficiently met by the mid-range and lower offerings. Accordingly, only 14% of subscribers purchased broadband packages with download speeds under 25Mbps and the statistical data collected indicated that the majority of these subscribers were pensioners.

In addition to this, it is important to note that the ultra-high-speed offerings have not been available on the market for

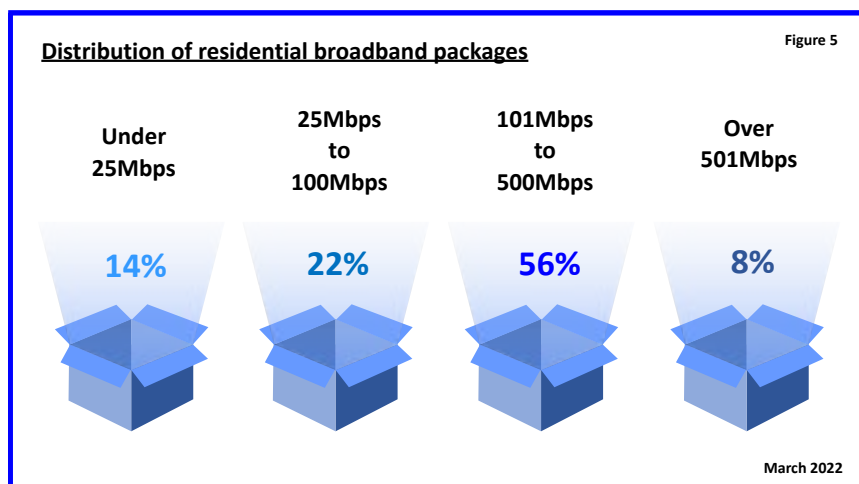
long, in comparison to the more established offerings, and in certain instances have only been introduced quite recently. Irrespective of this, Figure 5 still reinforces the fact that Gibraltar is following the worldwide trend of subscribers migrating to higher bandwidth products as prices become more competitive and lower bandwidth packages are ultimately phased out.

xvi. Revenue Collected

During the 2021/22 period and in accordance with the provisions of the Act, the total amount collected by the GRA in respect of General Authorisations was £758,018.00.

The total amount collected by the GRA in respect of Service Providers was £3600.00.

This has brought the total revenue for Service Providers and General Authorisations for the 2021/22 period to £761,618.00.



RADIO COMMUNICATIONS



Introduction

The Spectrum and Operations Division (the "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 responsible for administering the regulatory provision of the Radio Regulations, which include terrestrial and satellite services, together with the issuing of Outer Space Act Licences. Furthermore, the Division also represents the Gibraltar-based operator SES Satellites (Gibraltar) Limited ("SES-G") at international meetings and forums, ensuring compliance with the International Telecommunication Union ("ITU") Radio Regulations and all other related international obligations.

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 which are in 10 distinct orbital slots.

As part of its remit under Part VI of the Communications Act 2006 (the "Act"), the GRA is responsible for the management and control of the electro-magnetic spectrum. Amongst its duties, the Division carries out regular inspections of sites known to emit radio waves with a view of ensuring that they operate within the recognised safety guidelines. The Division is also responsible for the management and allocation of radio frequencies, which extend to those used by mobile operators for the provision of

mobile voice and data services. The GRA also issues licences to all users of licensable equipment that emit radio waves and has powers to approve radio transmitter equipment that is to be marketed in Gibraltar.

International Coordination and Participation

i. Satellite Coordination

The geostationary orbit is where most of the communications satellites are located. At 36,000km above 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 that 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 used, a limited natural resource and the slots 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 timeframe for FSS and BSS respectively will commence.

The ITU will examine the filed parameters to calculate the potential for harmful interference these new satellites could cause to existing satellite and terrestrial networks. When the filing is accepted by the ITU, it will be published in the 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 that are 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 harmful interference.

Once efforts have been made to coordinate the filing, these can be reported 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 22 filings with the ITU in 10 orbital slots around the geostationary orbit.

Gibraltar has a mature satellite industry and currently has 10 filings brought into use and notified with the ITU, with the

activity this year going into existing key orbital slots. These SES-G existing networks could potentially suffer harmful interference from new incoming filings and the Division has identified 741 satellite networks from different administrations around the world that could potentially affect SES-G networks (this includes potential harmful interference identified from the same network under different provisions).

ii. 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 Division must examine the publications of these new networks and inform the relevant administration that coordination is required. The in-house software makes the process simpler and drastically reduces the analysis time and therefore allows for more time to consult with the satellite operator before the expiry of the period for comments and/or objections. This software application automates the process of notification to Ofcom, the UK regulator, and streamlines the back office associated activities such as filing and logging deadlines.

iii. Satellite Coordination Meetings

Due to the pandemic and how this has affected the ability for other administrations to work remotely, only virtual meetings have been held during this period. A virtual satellite coordination meeting between Russia and the UK took place in

August 2021 where operators from each administration presented proposals to achieve coordination between affected networks. An agreement was reached in principle between the operators regarding six of the nine agenda items that were relevant to SES-G. These agreements have been consolidated into the Summary Record of the meeting and the respective administrations are undertaking a ratification process.

iv. SES-G Development Plan Review Meeting - Update

A virtual meeting was held between the Division, Ofcom, and SES-G in May 2021 to discuss the Annual Development Plan update for the SES-G satellite filings. The updated plan was reviewed and approved by the Division prior to discussions with Ofcom.

v. Terrestrial Coordination

As with satellite coordination, the Division examines the information published by the ITU with respect to terrestrial services which contains additions, modifications or suppressions of terrestrial transmitting stations or networks from neighbouring countries, any of which could cause interference to Gibraltar registered stations. Unlike satellites which can cause interference issues to many other satellites or administrations, terrestrial services can mainly affect neighbouring countries, in Gibraltar's case, Spain and Morocco. Notwithstanding their relative distance from Gibraltar, modifications from Algeria and, to a much lesser extent, Portugal are also examined. Over the

period 2021-2022, a total of 1808 modifications from the countries listed above have been examined and only a handful of objections have been raised due to the high probability of potential interference.

vi. GE84 Plan Optimization for Africa

The ITU Radiocommunication Bureau, in collaboration with the African Telecommunication Union ("ATU"), launched a process for the optimization of the GE84 Plan for African countries back in 2019.

The main purpose of this optimization is to achieve an efficient use of the 87.5-108 MHz (FM) band for analogue sound broadcasting and to allocate new frequencies to FM broadcasting to meet the increasing need for additional frequencies in African countries including Morocco. Radio can propagate many kilometres beyond a country's boundary and as such, it can cause interference to or limit the available spectrum in a neighbouring country. Any optimization process or spectrum realignment may have consequential impacts on adjacent countries outside of the original scope of affected countries i.e., Gibraltar, Europe, and Middle Eastern countries.

As part of the process, in July 2021, Algeria and Morocco submitted more than 1000 modifications to the GE84 plan. All these modifications were examined and only a small number were deemed unacceptable as they would interfere with Gibraltar registered stations or the power levels towards Gibraltar were deemed excessive. This triggered bi-lateral coordination between the UK (Gibraltar) and Morocco which, due to the pandemic, had

to be conducted online in April and October 2021, and January 2022. Ofcom assisted the GRA in these negotiations which are yet to be finalised. Substantial progress has been made with Morocco who amended its submissions to minimise any undue interference towards Gibraltar. Coordination is still ongoing.

Regulatory Matters

Below is an overview of regulatory matters dealt by the Division during 2021/2022:

i. Management of the Electro-Magnetic Spectrum

Section 56 of the 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 GRA and, as part of its annual remit, the Division carries out regular inspections of the electro-magnetic spectrum using equipment capable of measuring interference, the power levels of equipment transmitting radio waves, and

several other factors useful in determining the state of Gibraltar’s electro-magnetic spectrum usage.

The Division also carries out compliance monitoring to ensure emissions from transmitters comply with international guidelines as set by the International Commission on Non-Ionizing Radiation Protection (“ICNIRP”). As part of the licensing process, the Division 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 GRA’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 can be challenging. The GRA is not responsible for establishing the recommendations for exposure to electro-magnetic emissions. Therefore, the Division does not set emission safety levels and it has neither the expertise nor the remit to participate in matters concerning biological or health research. The Division has, however, been working closely with the Ministry for the Environment to ensure that concerns from the public regarding electromagnetic emissions from mobile base stations and other radio transmitters are addressed swiftly.

ii. Mobile/Fixed Communications Networks

Gibtelecom launched its mobile 5G service using the 3500 MHz band on 1st June 2021. Due to delays beyond its control, it was not able to launch the additional 700 MHz 5G service to complement the 5G experience. As part of the licensing process, the GRA conducted electromagnetic fields (“EMF”) level readings as each base station was being powered up for use for the first time in order to ensure compliance with the ICNIRP guidelines.

iii. Interference and Power-Level Monitoring

The Division also carries out inspections if concerns are raised by members of the public and/or 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 Division or exceed the ICNIRP Guidelines, the standard adopted by HM Government of Gibraltar. Taking into consideration the resources required to ensure all radio transmitters, including future mobile network base stations, are compliant with the ICNIRP guidelines, the GRA has equipment that continuously monitors EMF levels throughout Gibraltar and emissions from mobile phone base stations, including all radio transmissions in the frequency band 20MHz to 40GHz.

The equipment consists of four fixed monitoring units, an indoor deployable unit (for use inside buildings) and a handheld portable unit to measure EMF levels at key locations around



Gibraltar. The fixed and deployable units monitor the EMF levels in real time in the bands 20MHz to 40GHz and automatically uploads the information onto a publicly available portal. This portal can be accessed via the GRA's website. This equipment will complement the existing spectrum analysers which are used primarily to identify the sources of interference.

The table below shows the peak and average levels recorded during the measurement programme which launched in April 2021. The results demonstrate that the recorded levels did not exceed the ICNIRP guidelines and on average are well below the maximum threshold.

	Peak	Average
University of Gibraltar	1.77 V/m	0.76 V/m
Westside/Bayside School Complex	21.73 V/m	2.92 V/m
St Anne's School	6.13 V/m	3.66 V/m
Kings Way House Alameda	13.61 V/m	1.6 V/m

Furthermore, during the past 12 months, the GRA has conducted various on-site EMF surveys at the request of concerned members of the public, at their residence or place of work. Although these reports have not been published at the request of the individuals, we can confirm that these measurements were also below the ICNIRP guidelines.

In the period 2021/2022, the following matters were attended to:

a) Mobile Interference

The Division has been primarily involved in dealing with issues affecting mobile service providers. Given the population and building density in Gibraltar and the growing demands in mobile radio networks, it is inevitable that issues of this nature continuously reappear. During the past months, the Division has been investigating intermittent problems affecting the coverage area in Main Street, the Port, and land frontier area. Although the sources are yet to be identified, the Division continues to work closely with local network operators, other users of the spectrum and in collaboration with the Jefatura Provincial De Inspección De Telecomunicaciones en Cádiz to solve the problem affecting Spanish operators. Although not designed for this purpose, the EMF monitoring project has detected peaks in the north district which could assist in the triangulation of interfering sources which, apart from disrupting existing networks, contribute to an increase in EMF levels.

b) Air Traffic Control Interference

The band allocated to Aeronautical Mobile services used by Air Traffic Control ("ATC Gibraltar") in Gibraltar and indeed throughout the world, is adjacent to the high-powered FM Broadcasting service. Occasionally, any fault in a broadcasting system may cause signals to deviate and 'invade' the adjacent bands causing intermittent interference problems, inhibiting the ability of the aircraft to effectively communicate with the respective air traffic control tower. The GRA has been investigating an ongoing issue intermittently affecting ATC Gibraltar in which engineers from both NATS and the GRA are working to identify and resolve. The GRA has also been working closely with the Jefatura Provincial De Inspección De Telecomunicaciones en Cádiz to resolve this matter.

c) Large Public and Sporting Events

Due to the pandemic and restrictions on events, there have only been a small number of requests for temporary spectrum - mainly for football matches. Irrespective of the size of the event or of the amount of spectrum required, there are several technical requirements that must be met in order to ensure the equipment operates within the local regulations to avoid causing interference or being interfered with.

iv. Advice and Cooperation with other Agencies

The Division continues to work closely with the Ministry for the Environment and HM Government of Gibraltar agencies to address issues relating to

radiocommunications, especially perceived health risks from radio transmitters. Throughout the 5G Project rollouts, the Division continues to be in regular communication with the Ministry for the Environment, Civil Aviation Director, Office of the Town Planner, NATS, RAF, and the Environmental Safety Group.

v. Streamlining of Ship Station Licensing Procedures

After consulting with the Maritime industry, it was decided that there was a need to streamline the ship station licensing process. Originally, the GRA required full equipment details including make, model, and serial numbers of all licensable radio equipment on board any Gibraltar registered vessel. After discussions with the Gibraltar Maritime Authority (the “GMA”) and the Gibraltar Port Authority (the “GPA”), it was decided that licensees and applicants need only state the number of units and type of equipment on board vessels. This has significantly reduced the burden on ship owners, their agents and GRA back-office staff in processing relevant application forms.

vi. Personal Locator Beacon Register

Personal Locator Beacons (“PLB”) are small portable distress beacons commonly used at sea to complement a vessel’s Emergency Position Indicating Radio Beacon (“EPIRB”) or used on small watercrafts such as kayaks or stand-up paddle boards. After discussions with the GMA and GPA, and due to the potential proliferation of these devices for personal use

with small watercraft in and around BGTW, the GRA launched a PLB register in July 2021. These devices are classified for personal safety of life and have been made licence fee exempt. Like EPIRBs registered with the GRA, the registration details are shared with the emergency services through a secure portal. To date, 20 PLB have been registered with the GRA.

vii. British Virgin Islands – Ship Station Licensing Database

The GRA continues to provide support to the British Virgin Islands (the “BVI”), in respect to the Ship Station Licensing software originally developed by the GRA for their exclusive use in 2006. After more than 15 years in operation, the system is showing its age and is scheduled to be replaced shortly. However, whilst a new system is procured by the Government of the BVI, there was an urgent need to apply patches and modifications to the application so that it could still be fit for purpose and business continuity.

viii. Licensing of the Electro-Magnetic Spectrum

The GRA collects licence fees on behalf of HM Government of Gibraltar and uses different licensing schemes to promote the use of technologies and maximise the efficient use of the electro-magnetic spectrum. The following table outlines the fees collected during the period 2020/2021 for each type of licence issued under Part VI of the Act:

Accounting Authorities	£12,000.00
AGRS	£447.00
CB Radio	£84.00
Fixed Links	£11,185.00
Mobile	£885,948.00
Radio Microphone	£149.00
Paging	£955.00
PMR	£11,875.00
Port Ops	£3,575.00
Radar	£318.00
Radio Amateur	£312.00
Ship Station Licence	£26,600.00
Wireless Dealers	£2,000.00
Spectrum Usage	£9,821.00
VSAT	£2,109.00

Furthermore, during the period 2021/2022, the GRA renewed six Outer Space Act 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 issuing these licences was £7,000.00.

ix. Outer Space Act 1986 (Gibraltar) Order 1996

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 to 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 GRA, by the Delegation of Functions (Outer Space Act 1986 (Gibraltar) Order 1996) Notice 2001.

All the satellites licensed by the GRA are included in the UK’s Registry of Space Objects and the Division 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. In July 2021 however, the Civil Aviation Authority (the “CAA”) became the UK space regulator and the powers previously held under the UKSA for these purposes were transferred to the CAA. The GRA continues to work closely with the UKSA and CAA during this transition and a closer working relationship with the CAA is sought.

Currently, there are six Gibraltar-licensed satellites.



INFORMATION RIGHTS



Introduction

The Data Protection Act 2004 (the “Act”) designates the GRA, as Data Protection Commissioner (the “Information Commissioner”), to be the supervisory authority for data protection in Gibraltar. The general functions conferred on the Information Commissioner in relation to the tasks and powers of the supervisory authority are assigned under Part V and VI of the Act.

The Act, alongside the Gibraltar General Data Protection Regulation (the “Gibraltar GDPR”), form Gibraltar’s data protection regime. The Gibraltar GDPR for the most part, mirrors the EU General Data Protection Regulation 2016/679 (the “EU GDPR”), which ceased to apply in Gibraltar on 1st January 2021. The legislation includes a set of principles that organisations, including public bodies and businesses, must adhere to, as well as a series of rights for individuals over their personal data.

The continued uncertainty resulting from the COVID-19 pandemic, particularly in the first half of the reporting period, required the Division to adapt. Testament to the Division’s ability to remain flexible, was the Division’s successful hosting of a virtual European Case Handling Workshop 2021 (“ECHW”), an annual feature in the calendar of European Data Protection Authorities, and typically an in-person event. The year has also seen the GRA, as the Information Commissioner, win an international Global Privacy Assembly award for the awareness raising initiatives undertaken regarding the Division’s “Education and Public Awareness” work.

The Division has again managed to remain fully operational during another challenging year, efficiently continuing to respond to public concerns and to enhance its awareness raising initiatives.

International Participation

Despite ongoing COVID-19 restrictions continuing to prevent in-person events, the Division has nevertheless maintained its commitment to international cooperation through virtual participation in organised events. Keeping up to date on global trends and interacting with data protection authorities internationally allows the Division to continue growing, learning, and ensuring effective regulation in line with data protection legislation in Gibraltar. The Division’s international participation this year has included the following:

i. 22nd to 24th June 2021 - Privsec Global Livestream – Credential Stuffing

The Director of Information Rights and Operations spoke at the PrivSec Global livestream, a leading data protection, privacy, and security event. The topic of discussion was “How to Prevent Credential Stuffing Attacks While Managing Risk and Trust”.

ii. 23rd to 24th June 2021 – 12th International Conference of Information Commissioners – Closed session

Members of the Information Commissioner’s office attended the 12th International Conference of Information Commissioners (“ICIC”). The conference, which focuses on matters relating to freedom of information and transparency in the public sector, consisted of a closed session in which, amongst other matters, the ICIC’s strategic priorities for 2021 to 2024 were discussed.

iii. 24th to 25th June 2021 - British, Irish and Islands’ Data Protection Authorities

Members of the Information Commissioner’s office attended the annual British, Irish and Islands’ Data Protection Authorities (“BIIDPA”) meeting, which was hosted virtually by the Privacy Commissioner of Bermuda. BIIDPA meetings are informal in nature, principally providing Data Protection Authorities with an opportunity to discuss the latest developments within their jurisdictions.

iv. 28th to 30th June 2021 – 41st Plenary Meeting of the Committee of Convention 108

The Information Commissioner’s office took part in the Committee of Convention 108 plenary meeting (“C108 Meeting”). Convention 108 is the only global legally binding agreement on data protection law. Amongst other things, the

C108 Meeting discussed law enforcement issues, transborder access to data, digital identity, and personal data processing by and for political campaigns.

v. 22nd September 2021 - Privsec Global – Navigating Complex Data Subject Access Requests

The Director of Information Rights and Operations participated in a panel with regulatory experts to discuss data subject access requests (“DSARs”), technological development, and regulatory action. The panel highlighted the value of taking a proactive approach towards DSARs. Making genuine endeavours to comply with DSARs is fundamental and likely to mitigate regulatory risk.

vi. 18th to 21st October 2021 – 43rd Global Privacy Assembly

The Information Commissioner’s office attended the 43rd Global Privacy Assembly (“GPA”), hosted virtually by Mexico’s Instituto Nacional De Transparencia, Acceso a la Informacion y Protección de Datos Personales. The event was attended by more than 90 global members and observers who considered key data protection challenges. The GPA, a premier global forum for data protection and privacy authorities, seeks to provide leadership in data protection and privacy matters at an international level by connecting the efforts of more than 130 data protection and privacy authorities from across the globe.

vii. 28th October 2021 – Fincrim Global – Regulator Rhetoric, Tech Realities Panel

The Director of Information Rights and Operations participated in a panel with regulatory experts to discuss technological development and regulatory action. The panel discussed the importance of a private-public relationship to encourage compliance. The Information Commissioner’s commitment to guidance and engagement as part of an effective and modern regulatory regime in support of compliant technological progress was highlighted. The panel also discussed the importance of trust and compliance to be successful in the digital environment.

viii. October 2021 - Global Privacy Enforcement Network

The Information Commissioner’s office took part in this year’s Global Privacy Enforcement Network (“GPEN”) Sweep. The GPEN Sweep is conducted annually, with the aim of gaining a cross-border insight into events and topics of current relevance. This year’s GPEN Sweep explored how the global Data Protection Authority community engaged with local governments to identify and understand the risks associated with COVID-19 initiatives, and to make recommendations to improve compliance with privacy and data protection laws.

ix. October 2021 - Joint Exercise on Videoteleconference Providers

The GRA completed its joint

exercise with other privacy authorities from Australia, Canada, Hong Kong SAR, China, Switzerland, and the United Kingdom, to address privacy matters surrounding video teleconferencing (“VTC”). An open letter was sent to five of the biggest VTC companies, namely Microsoft, Google, Cisco, Zoom and HouseParty. The exercise highlighted concerns about whether privacy safeguards were keeping pace with the rapid increase in the use of VTC services during the global pandemic and provided VTC companies with some guiding principles to address key privacy risks.

x. November 2021 - Mexico’s Federal Data Protection Authority Workshop

The Director of Information Rights and Operations was invited by Mexico’s Instituto Nacional De Transparencia, Acceso a la Informacion y Protección de Datos Personales to participate in a panel on Data Portability alongside other regulatory experts.

Regulatory Matters

The following is an outline of the regulatory matters which the Division has been involved in for the period 2021/22.

i. Measured Activity

Amongst other activities, the Division’s regulatory functions

include dealing with inbound enquiries, investigations, data protection audits, and data breach notifications.

a) Inbound Enquiries

Through inbound enquiries, the Division is able to gain an understanding of areas of particular concern with regards data protection. Along with other available resources that also highlight relevant areas, enquiries both from organisations and the public allow the Division to form a roadmap for the production of guidance notes in relevant areas, as well as initiating other awareness raising activities.

The 175 enquiries received this year are categorised by subject matter so that the Division can assess any predominant areas which may merit the Division's particular attention (Figure 1).

As evident from Figure 1, enquiries relating to lawful bases, CCTV, and subject access requests ("SARs"), top the chart when categorising enquiries by subject matter.

The increase in enquiries relating to lawful bases when compared to last year is particularly noteworthy. Given that several of these enquiries related to the sharing of personal data, it is thought that this increase

may have stemmed from the Division's newly published Data Sharing Code of Practice, which was published in August 2021 as outlined below.

The slight decrease in enquiries relating to data security should also be highlighted. In last year's report an increase in such enquiries was recorded, in response to which the Division issued guidance on Data Security, supplemented by a session on the topic within Data Protection Officer Workshops held in December 2020.

b) Complaints, Investigations and Enforcement

An investigation is any process which sees the Division taking action either as the direct 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 Act and/or Gibraltar GDPR is being complied with.

The Division is responsible for handling complaints received from data subjects in relation to data protection matters.

As reflected in Figure 2, there has been an overall net decrease in active cases. This has in turn allowed the Division to concentrate additional efforts on other areas of work, such as proactively expanding their international presence through participation in international panels and the organisation of the ECHW. The Division's internal complaints handling procedure continues to be an invaluable resource in the improvement of efficiencies and the better management of investigations.

Importantly, a distinction can be made between cases closed without requiring a full investigation (e.g., because of

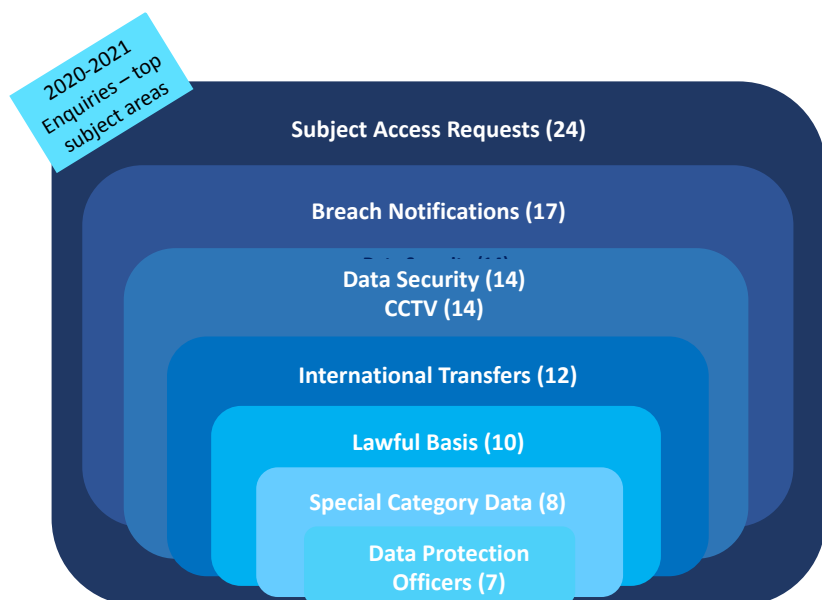
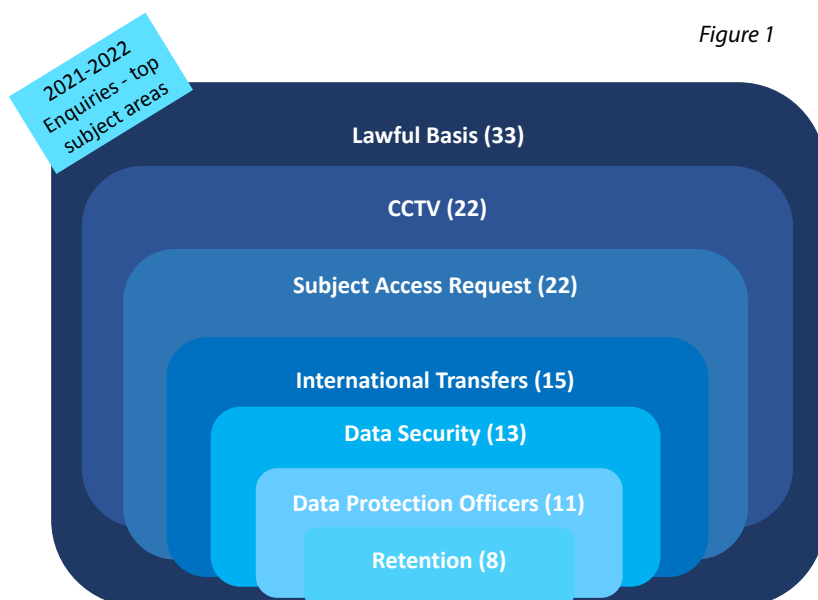


Figure 1





the Division's requirement for the parties involved to engage on the issue(s) raised and/or the Division's referral to the relevant organisation/person for them to attempt to resolve the matter), and those requiring a full investigation by the Division.

During the reporting period, following complaints to our office, 31 cases have been opened by the Division. In turn, 26 cases have been closed without

requiring a full investigation, although it should be noted that some of the investigations closed had been commenced in previous reporting periods.

Notably, SARs have, as was also the case last year, been the subject matter of several of the cases that have been closed, whilst simultaneously being one of the topics most enquired about (Figure 1).

The period 2021/22 saw the Division complete and close a total of 7 cases that involved full and thorough investigations that lead to a formal decision by the Information Commissioner, and enforcement action where appropriate. The Division's actions are subject and proportionate to the circumstances of the particular case, including amongst other matters, a data controller's compliance history, cooperation with the Information Commissioner, and willingness to take corrective action. Although not applicable to the vast majority of cases, the Information Commissioner at times requires use of his enforcement powers as granted under Part VI of the Act.

The cases and any enforcement action in relation to investigations undertaken in the reporting year 2021/22, are summarised in the table below.

Reference Number and Data Controller	Investigation Summary
IV38/18 Income Tax Office ("ITO")	<p>The investigation concerned a complaint (the "Complaint") submitted by two individuals ("Complainant A" and "Complainant B") in relation to the disclosure of Complainant A's personal data and the alleged disclosure of Complainant B's personal data. The Complaint also related to the ITO's response to the rectification requests submitted by both Complainant A and Complainant B.</p> <p>Articles breached: Article 5(1)(d), 5(1)(f), 5(2), 6(1), 12(2) 12(4), 16 and 32 of the GDPR. Sections 6(1)(b) and 7(1) of the DPA prior to it being amended by the EU GDPR.</p> <p>The ITO were required to review their arrangements in regard to the breaches identified to mitigate the risk of future occurrences of such data breaches and to ensure that their procedures for facilitating rectification requests comply with the GDPR.</p> <p>No further action was required, taking into account the circumstances of the case and corrective action taken.</p>
AmRes 07/19 Lottohelden Limited ("LH")	<p>The investigation concerned an alleged transfer of personal data, and information provided to individuals regarding the processing of personal data by LH.</p> <p>Articles breached: Article 12(1), 13 and 5(1)(a) of the EU GDPR.</p> <p>LH were required to review their arrangements to ensure compliance with Article 13 of the EU GDPR.</p>
AmRes 10/19 Royal Gibraltar Police ("RGP")	<p>The investigation concerned the disclosure of CCTV footage concerning an individual.</p> <p>Sections breached: Sections 43(3), 49, 65(3), 66(1), 75(1) and 80(2)(c) of the DPA.</p> <p>The RGP were required to review their data protection arrangements to ensure appropriate technical and organisational measures are in place for the processing of CCTV related personal data, including the implementation of relevant policies and procedures.</p> <p>The Information Commissioner issued the RGP with a Reprimand.</p>

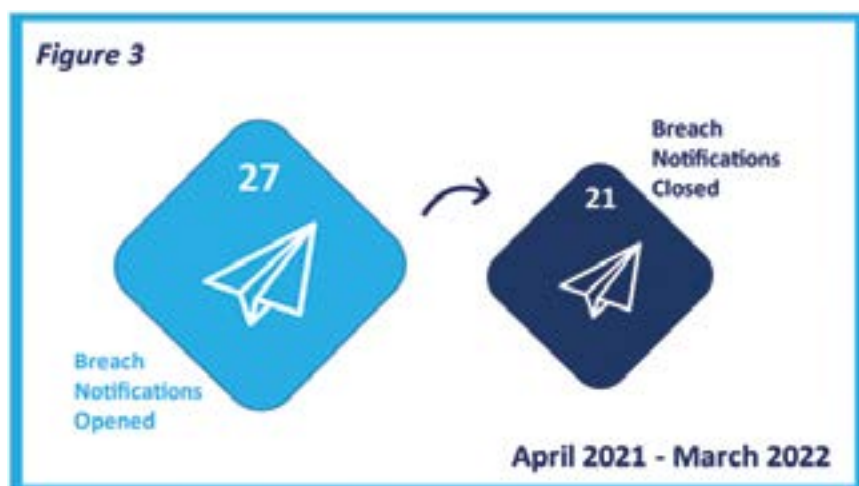
C53/19 GVC Services Limited ("GVC")	<p>The investigation concerned a response to a SAR.</p> <p>Articles breached: Articles 12(1) and 12(3) of the GDPR.</p> <p>GVC provided information in response to the SAR, albeit outside of the prescribed timeframe. As a result of the investigation, GVC reviewed their arrangements to ensure that their procedures for facilitating SARs comply with the EU GDPR.</p> <p>No further action was required, taking into account the circumstances of the case and corrective action taken.</p>
C36/20 Royal Gibraltar Police ("RGP")	<p>The investigation concerned a response to a SAR.</p> <p>Articles breached: Articles 12(2), 12(3), 15 and 24(1) of the EU GDPR.</p> <p>The RGP responded to the SAR but did not, within the prescribed timeframe, inform the Complainant that they would be extending the timeframe to respond or provide reasons for the delay.</p> <p>As a result of the investigation, the RGP updated their policies and procedures for the handling of SARs.</p> <p>No further action was required, taking into account the circumstances of the case and corrective action taken.</p>
C03/21 The Royal Bank of Scotland International Limited ("RBSI")	<p>The investigation related to a request for personal data by RBSI (trading in Gibraltar as NatWest International), to several Gibraltar-based data controllers about who their clients were with regards to pooled bank accounts held by the controllers. Specifically, the Information Commissioner investigated whether the personal data request by RBSI was excessive in the circumstances.</p> <p>The Information Commissioner could not conclude that there had been a breach of the Gibraltar GDPR and/or DPA.</p>
C05/21 Ibex Insurance Limited ("Ibex Insurance")	<p>The investigation concerned the response to a SAR.</p> <p>The Information Commissioner concluded that in their capacity as data controller, Ibex Insurance complied with the Gibraltar GDPR when responding to the SAR.</p> <p>Other matters were also considered during the investigation, the same which the Information Commissioner concluded to be outside of the remit of the Gibraltar GDPR.</p>

c) Data Breach Notifications and Enforcement

Article 33 of the Gibraltar GDPR requires data controllers to notify the Information Commissioner of personal data breaches concerning their organisation's data processing activities, unless the personal

data breach is unlikely to result in a risk to the rights and freedoms of natural persons. Upon review, the Division will make recommendations on and/or require action that the controller should take to mitigate the risks of future breaches of the sort. Where necessary, enforcement action may also be taken.

As reflected in Figure 3, during the reporting period, the Division received 27 data breach notifications, a slight decline from the 30 received during the previous year. In the reporting year, 21 data breach notifications have been addressed and closed, (some of which related to



notifications received in previous reporting years), and 18 remain ongoing. (Figure 3)

Of all breach notifications received, the most prominent issue related to unauthorised disclosures. Having published a Data Sharing Code of Practice in August 2021, the Division hopes to see a reduction in data breaches relating to unauthorised disclosures.

Of the breach notifications closed in the reporting year 2021/22, the ones that have resulted in enforcement action being taken by the Information Commissioner are summarised in the table below.

d) Data Protection Audits

The aim of audits is to check for compliance with data protection legislation, and thereafter assist the data controller/ data processor in achieving best practice in terms of their data processing operations. Enforcement action may be taken where necessary.

Whilst the Division was hopeful of resuming inspections during the reporting period, due to the continued effect of the COVID-19 pandemic and restrictions arising as a result of the same, the Division has been unable to do so.

ii. Data Protection Guidance

The Division continues to proactively publish guidance notes and to organise data protection workshops intended to promote collaboration and debate and to provide an open forum whereby organisations can discuss data protection law and best practice.

The following lists the Division's output during the reporting period in respect of the same:

a) Guidance Notes

- Data Protection in the Employment Context (published December 2021)

Provides guidance on the legitimate expectations of employees with regards the processing of their personal data by employers, as well as the legitimate interest of employers in deciding how best, within the boundaries of data protection law, to run their organisations.

- Data Sharing Code of Practice (published August 2021)

Provides detailed guidance and good practice for the sharing of personal data between organisations. It also provides a general framework which organisations can use to develop their own data sharing arrangements and ensure compliance with Gibraltar's data protection laws.

The code also provides organisations with information on how they can share personal data in a fair, safe, and transparent manner, whilst also guiding them through the practical steps they need to take to share personal data while protecting individuals' rights and freedoms.

b) Local Workshops/ Organisational Awareness

Below is a list of workshops organised by the Division during the reporting period:

- Workshop for Data Protection Officers

Commenced in March 2019, the Division's periodic Workshops for Data Protection Officers ("DPO Workshops") intend to promote awareness and provide assistance to data controllers in relation to their data protection obligations.

Whilst the Division typically aims to organise two DPO Workshops a year, during the reporting period, due to other commitments primarily relating to the hosting of the international ECHW 2021 (further detail below), only one virtual DPO Workshop was held on the 20th April 2021. With approximately 35 attendees, the topics discussed related to data protection risk assessments, the tasks of a DPO in relation to their resources and availability, the rights of individuals, and accountability.

Reference Number and Data Controller	Investigation Summary
BN23/19 Royal Gibraltar Police ("RGP")	The investigation concerned a data breach by the RGP on 10th February 2020 regarding the loss of personal data as contained within two USB flash drives processed by the RGP. Sections breached: Sections 49, 65(1), 65(2), 65(3), 75 and 77(2) of the DPA. The Commissioner issued the RGP with a Reprimand on 7th March 2022.
BN02/21 Royal Gibraltar Police ("RGP")	The investigation concerned a data breach by the RGP on 19th April 2021 regarding the unlawful disclosure by the RGP of personal data contained within an email. Sections breached: Sections 49, 65(1), 65(2), 75, 77(1) and 77(2) of the DPA. The Commissioner issued the RGP with a Reprimand on 7th March 2022.

Reports on the DPO Workshops are publicly available on the GRA's website.

The Division has commenced preparations for a fifth DPO Workshop to be held in 2022. DPO's are able to register their interest in attending DPO workshops by contacting the Division by email on dpoworkshops@gra.gi

c) Registers

• Register of Data Protection Officers

In accordance with section 138 of the Act, the Information Commissioner continues to maintain a public Register of Data Protection Officers ("DPOs"). Organisations wishing to include their DPO within the register may notify their intention by submitting the DPO Notification Form which can be downloaded from the GRA's website.

• The Opt-Out Register

In 2013, the Information Commissioner created the Opt-Out Register for fax and telephone, based on provisions found in the Communications (Personal Data and Privacy) Regulations 2006. This free service is available to fixed line and mobile subscribers who do not want to receive unsolicited direct marketing calls and/or faxes.

iii. Public Awareness

The Division's "Control Your Privacy" ("CYP") campaign, through which the Division raises awareness of data protection and privacy, has continued. Interactions with the public include the following:

a) Social media

The Division's public

engagement strategy includes dissemination of information through social media platforms. Ad hoc posts are combined with larger social media campaigns to cover topics of current relevance. These sometimes link to more substantial documents such as infographics and/or guidance notes, which provide a more in-depth insight into the topic at hand.

This year, the Division's social media activities, which are available on the GRA's website and/or accounts on social media platforms, included the following:

• Exemptions (Social Media Post Campaign)

Ten-week campaign which ran between 27th April and 9th July 2021, describing the various exemptions that the Act provides from otherwise applicable data protection provisions.

• Concepts of Data Controllers and Data Processors (Social Media Post Campaign)

Seven-week campaign which ran between 7th September to 29th October 2021 explaining the concepts of data controller and data processor and examining how essential they are in the application of data protection law.

• Privacy Awareness School Survey (2020-21) (Social Media Post Campaign)

Twelve-week campaign that commenced in November 2021, highlighting the key findings from the two Privacy Awareness School Surveys carried out in schools in Gibraltar during the 2020/21 academic year.

• Privacy and Christmas Top Tips (Video)

In December 2021, a video was

published to provide top tips on sharing images online, and how to better safeguard privacy in today's social media culture.

• The Importance of Data Protection for the Digital Economy (Infographics and videos)

In celebration of Data Protection Day, celebrated every 28th January, a nine-week long campaign focusing on "The Importance of Data Protection for the Digital Economy" was launched. This included a video and infographics relating to the topic.

b) Ad-hoc posts

The Division's ad-hoc social media posts vary from specific guidance on certain topics to information relating to activities carried out by the Division, such as the publication of guidance notes, public and organisational awareness raising events, and participation in international events.

c) E-Newsletters

E-newsletters have continued to be published on a quarterly basis, providing subscribers with news, updates, and the latest developments in relation to data protection and freedom of information matters. These can be found on the GRA's website.

d) Subscription Service

The Division's subscription service for individuals and/or organisations interested in staying informed about data protection-related matters allows the Division to provide information regarding ongoing work, such as the publication of guidance notes. Those wishing to subscribe can email dpsubscribe@gra.gi.

e) Data Protection Day

Celebrated internationally every 28th January, Data Protection Day commemorates the importance of privacy and data protection. Given the growing prominence of the digital economy, and the heightened risks to personal data that comes with this growth, this year the Division launched a campaign titled "Data Protection Boosts the Digital Economy."

The campaign included a series of infographics to highlight the main developments and trends in the 'digital economy', whilst also laying emphasis on the possible risks presented to personal data in the digital environment, and appropriate safeguards provided by data protection legislation.

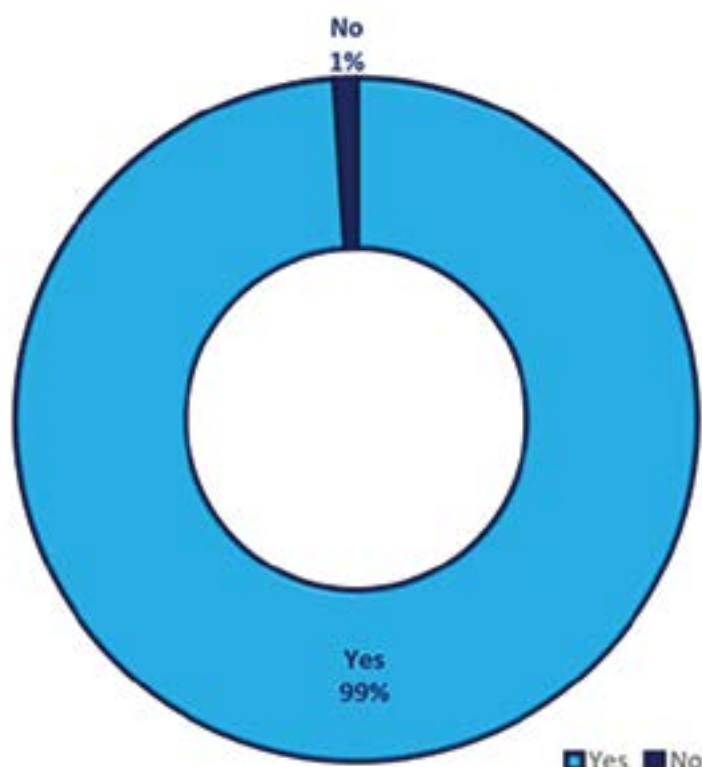
The Division also launched an explanatory video that draws attention to the exponential growth in the volumes and types of data processed, and the relationship between data protection and the developing digital economy.

f) Safer Internet Day

For the second year running, the Division joined forces with other stakeholders to commemorate Safer Internet Day, which takes place annually on 8th February. The aim is to take collective action to make the internet a safer and better place for all, especially for children and young people.

g) Awareness Through Education

The Division continues to promote responsible use of digital technology from a personal data perspective, encouraging students to make informed decisions about the opportunities, but equally about



AGGREGATE AVERAGE 2020/21
YEARS 5, 7, 9 & 11 STUDENTS USING SNS



the risks, associated with the same.

The results of the Division's Privacy Awareness School Surveys (the "Surveys") conducted during the 2020/2021 academic year, were published in June 2021 (the "Report"). Amongst results received, similarly to previous years, an aggregate of 99% of those surveyed use social networking sites ("SNSs").

A total of 892 students between the ages of 9 and 16 years took part in the Surveys. The sample size for the 2019/2020 academic year was considerably larger, with a total of 1421 students taking part. The significant drop in sample size for 2020/2021 is likely to be COVID-19 pandemic related, given that the restrictions in place at the time of distribution of Surveys hindered the dissemination, completion, and collection of the same. There was also a period of school closure between December 2020 and February 2021 as a result of the pandemic.

It is interesting to note that amongst the age groups surveyed, Year 11s are reported to post videos and photos most frequently, whilst the posting of such content by Year 5s was more frequent than the older Year 7s and Year 9s. This reinforces the Division's views that SNSs are increasingly being used from an earlier age, and supports the action taken by the Division to focus additional efforts on educating Year 5s about the risks and safeguards surrounding personal data and SNSs.

The full Report is available to download from the GRA's website.

Following the Report, the Division continued their annual trend of delivering presentations to Year 5, 7, 9, and 11 students

between November 2021 and March 2022.

iv. Freedom of Information

The Freedom of Information Act 2018 ("FOIA"), which is based on the principle that people have a right to know about the activities of public authorities, made its way through Parliament in 2018. With the addition of the Department of Education, the Human Resources Department, and the Gibraltar National Archives to the FOIA Schedule (the "Schedule") on 1st June 2021, the FOIA formally commenced.

Under the FOIA, the Information Commissioner has regulatory responsibilities and oversight of the regime, as well as an advisory role. The Division recognises the significance of freedom of information and access to information, both for individuals and public authorities alike. The Division collaborated with HM Government of Gibraltar to deliver presentations to the above-mentioned departments, prior to their addition to the Schedule. The presentations acted as a 'refresher' as the Division had previously delivered presentations to these departments in 2019.

Further to the above, and with the same advisory role in mind, the Division also created

the "Handling of Freedom of Information Requests - Flowchart," which was published on the GRA website. The flowchart provides guidance on the process that applies to the handling of requests for information under the FOIA by public authorities, providing the general framework within which freedom of information requests should be processed, as well as the steps that public authorities should consider when processing the same.

v. Additional Matters

a) 16th to 17th November 2021 – European Case Handling Workshop 2021

During November, the Division hosted the European Case Handling Workshop 2021 (the "ECHW"), an annual feature in the calendar of European Data Protection Authorities. Formed as a sub-group of the European Conference of Data Protection Authorities, commonly known as the 'Spring Conference', the ECHW provides a platform for international cooperation and focuses on the practical implementation of data protection on a day-to-day basis.

The virtual event saw over 120 participants, from over 30 data protection authorities participate in sessions to address



matters relating to data breach notifications, the handling of complaints, enforcement action, and the implications of the European Court of Justice judgment commonly referred to as 'Schrems II'. The GRA's Head of Information Rights presented on the topic of complaint handling procedures.

b) Global Privacy Assembly, Global Privacy and Data Protection Awards 2021

The Global Privacy Assembly ("GPA") is a premier global forum for data protection and privacy authorities, which connects

more than 130 data protection and privacy authorities from across the globe. The GRA, as the Information Commissioner, won an international award for its awareness-raising initiatives undertaken in the category of "Education and Public Awareness". The GRA competed with the work of other authorities worldwide and won the award following an open vote amongst the GPA's membership. The GRA's entry titled "A layered and multipronged approach to awareness raising" won the GPA's People's Choice Award. The GRA's success is owed to

its awareness raising approach, which combines traditional and modern outreach methods to target key sectors of the community. A short acceptance video was released on the Division's social media platforms.

The Division was also shortlisted for an award relating to collective work undertaken in respect of a cooperative compliance initiative concerning video tele-conferencing platforms, in conjunction with the UK's Information Commissioner's Office, the Office of the Australian Information Commissioner, the Office of the Privacy Commissioner for Personal Data of Hong Kong (China), the Federal Data Protection and Information Commissioner of Switzerland, and the Office of the Privacy Commissioner of Canada.





BROADCASTING



Introduction

The responsibilities of the Broadcasting Division (the "Division"), as set out in the Broadcasting Act 2012 (the "Act"), are to:

- Grant licenses to broadcasters;
- Enforce the conditions set on licensees;
- Regulate matters on broadcasting standards;
- Issue Codes of Practice; and
- Encourage the promotion of media literacy.

The Division specialises in providing guidance to consumers, purchasers, and other users of broadcasting services in Gibraltar, including the public service broadcaster with whom the Division mutually cooperates in an effort to sustain its good working relationship.

Gibraltar has two television broadcasters, two radio broadcasters, and an audiovisual media service provider. The first established television broadcasting service is provided by the Gibraltar Broadcasting Corporation ("GBC") which also provides one radio network, namely Radio Gibraltar, and is the sole public service broadcaster. The second television broadcaster, Music Box Gibraltar, was licensed in 2019 and transmits via electronic communications networks. They offer international and local music videos and are part of a wider network of Music Box channels in Eastern Europe. The second radio network licensed in Gibraltar is the British Forces Broadcasting Service provided by the Services Sound and Vision Corporation.

Additionally, since 1st September 2020, GibFibre Ltd has been providing a subscription-based video-on-demand service as part of their Audiovisual Media Service Licence.

International Participation

Similar to last year, all travel was suspended due to the COVID-19 pandemic which meant that the Division could not attend the usual conferences. Nevertheless, these were replaced by webinars and virtual workshops. Below are some of the main webinars and virtual meetings attended.

i. 53rd meeting of the European Platform for Regulatory Authorities ("EPRA"), 20th May 2021



The meeting was held online and consisted of various webinars. The webinars provided an opportunity to discuss the perspective of broadcasters on the key issues for the EU's Digital Services Act, as well as issues relating to artificial intelligence and the new technologies impacting the media industry across Europe. The webinar also touched upon the issues relating to the regulation of platforms.

ii. 54th meeting of EPRA, 14th October 2021

The meeting was held online and consisted of various webinars. The main topics discussed were cross-cooperation between regulatory bodies on matters affecting online harm, disinformation in elections and the EU's Digital Services Act.

Additionally, EPRA members were introduced to the University of Vienna's data-driven scholarship and its collaboration with EPRA. The aim of the collaboration is to explore the challenges faced by both regulators and academics, such as the impact of the digital environment on the media actors' sustainability and the societal needs, to provide inclusive policy and other resources for policy makers.

iii. EPRA virtual workshop with Vienna University, 24 November 2021

A workshop was organised by EPRA and the University of Vienna as part of a framework of cooperation and collaboration. There were several presentations focusing on the empowerment of youth in the digital environment and risks thereto. One of the presentations examined the benefits and drawbacks of social media prevalence on the youth and discussed the role it plays on political engagement.



Another presentation discussed the effects of social media use on youth well-being. The recent 'Facebook Files' revelations, raised the question on how social media platforms were to

be regulated. The presentation provided a general overview and presented perspectives for the future regulation of social media, and how research could support regulatory efforts to protect and foster well-being.

Regulatory Matters

The following is an outline of the regulatory matters which the Division has been involved with during the reporting period 2021/2022.

i. Measured Activity

a) Inbound Enquiries

The Division continues to receive queries on matters relating to the GRA's codes of practice, especially on the Audiovisual Commercial Communications Code and Programme Standards Code.

Additionally, the Division addressed numerous enquiries from the general public. Most queries related to information concerning applications for television and/or radio licences.

b) Monitoring

The Division continues to have a good working relationship with local broadcasters and is always available to provide guidance and make recommendations. During the COVID-19 pandemic, the Division adopted a more ad-hoc form of monitoring, and this has continued throughout this reporting year.

c) Complaints

The GRA received no formal complaints during this reporting year.

ii. Referendum on Abortion

The Division amended the existing code of standards, as required by paragraph 1(1) of Schedule 3 of the Act. The code was specific to the GBC and applied to the content of programmes relating to the referendum included in the television and radio services in Gibraltar. The referendum took place on 24th June 2021, and the GRA received no formal complaints.

iii. Media Literacy Awareness Campaign – Schools

The Division's 'Media Literacy Awareness Campaign' was put on hold for this reporting year due to the COVID-19 pandemic.

The Division will be able to resume the campaign as and when schools begin to allow in-person presentations as opposed to conducting them virtually. The topic for the presentation to year 9 students will continue to be 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 Division will also be organising presentations for older students, aged 17-18, on the topic of 'Fake News'. The main focus will be on the dangers of misinformation and disinformation with a major emphasis on fake news and, given the recent events with the

Russian invasion of Ukraine, this will be especially relevant.

iv. General Awareness Campaign

The Division continues to engage with people and organisations to enhance the local broadcasters' ability to deliver local content of a good standard, which meets the needs of viewers and listeners.

The Division is proactive in its approach in informing the public about the work undertaken and encourages the local community to use its complaints procedure if a viewer or listener deems something which has been seen or heard on local TV or radio to be inappropriate or detrimental to minors.

The Division is of the firm belief that by raising awareness about its published guidance, including via social media platforms, it is possible to inform the general public about what should be expected from local broadcasting services.

v. Revenue Collected

During the period 2021/2022, and in accordance with the provisions of the Broadcasting (Licensing) Regulations 2019, the GRA collected a total of £14,700.00 in respect of the following Licences:

FM Radio Licence	£10,000.00
Audiovisual Media Service Licence	£4,700.00



POSTAL SERVICES



Introduction

The Postal Services Division (the “Division”) of the GRA is responsible for the granting and enforcement of licences and general authorisations issued to postal service providers. In addition to this, the Division has the responsibility of regulating the Postal Sector in Gibraltar in accordance with the provisions of the Post Office Act 1969 (the “Act”) and the Postal Services (Authorisation) Regulations 2012 (the “Regulations”).

Specific functions under the Act include monitoring the operational developments of the Royal Gibraltar Post Office (the “RGPO”) as the designated Universal Service Provider (the “USP”) setting quality standards, monitoring performance against these standards, and ensuring that the RGPO complies with its universal service obligations which ultimately secures the provision of an efficient universal postal service at an affordable price for all users in Gibraltar. This must be achieved whilst balancing the RGPO’s right and freedom to also provide competitive services in a fully liberalised postal market.

The Division also has a responsibility to ensure that the RGPO complies with its obligations arising from the Act, as well as any additional regulatory measures imposed by the GRA relating to the provision of universal service. In many instances, this includes issuing guidance and directions in respect of accounting procedures, best practice, and quality standards in order to improve the myriad of services currently available to consumers in Gibraltar.

The Division also issues general guidance and recommendations to all postal service providers in order to ensure compliance with the requirements of the Act whilst simultaneously ensuring the rights of users are upheld, especially in cases where complaints are not satisfactorily resolved.

Regulatory Matters

The following is an outline of the regulatory matters carried out by the Division for the period 2021/22.

i. Universal Service

The universal service obligation aims to ensure that every user has the right to a universal service involving the permanent provision of a postal service of specified quality at all points in Gibraltar at affordable prices.

On 7th August 2020, the GRA designated the RGPO as the USP until 6th August 2027. It is important to note that, whilst the RGPO’s Individual Licence safeguards the provision of universal services and ensures compliance with essential requirements, it is in fact the RGPO’s designation which imposes the various universal service obligations. As the designated USP, the RGPO must provide a minimum range of services of a specified standard and affordable price for all users in Gibraltar.

The specific universal service obligations referred to above

relate to the following:

- Quality of postal services;
- Affordability of postal services;
- Density of points of contact and access points;
- One clearance and one delivery to the home of every natural or legal person or appropriate installation;
- The clearance, sorting, transport, and distribution of postal items up to 2 kgs;
- The clearance, sorting, transport, and distribution of postal packages up to 20 kgs;
- Provision of services for registered and insured items;
- Provision of certain free services for blind and partially sighted persons;
- Redirection and return to sender services;
- Poste Restante;
- PO Box; and
- Local and cross-border mail.

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. Among other items, the RGPO’s Individual Licence ensures that the universal services listed above evolve to meet the needs of consumers and that they are made available without any form of discrimination and are not interrupted. The Individual Licence also ensures that a suitable level of information is made available to consumers in respect of universal services and that complaints handling procedures are fair and conducted in a timely manner.

ii. Essential Requirements

In accordance with the Act, the GRA may impose what

are described as “essential requirements” on the supply of postal services in Gibraltar. These requirements shall be based on the following non-economic reasons –

- the confidentiality of correspondence;
- the security of the network as regards the transport of dangerous goods.

On 14th July 2020, the GRA published Notice No. P03/2020 which imposed a number of revised essential requirements on all postal service providers in Gibraltar and not solely upon the RGPO. The GRA also revoked the previous essential requirements that were applicable at the time, ultimately ensuring that all postal service providers in Gibraltar establish and apply adequate procedures that may be deemed necessary for the purpose of minimising the exposure of postal items to the risk of loss, theft, damage, or interference and for the management of access and prevention of unauthorised access to mail.

The “essential requirements” also enforced an obligation on all postal service providers to keep their procedures under regular review to ensure that these matters are adequate and that the confidentiality of any correspondence or general mail sent is ultimately maintained. In order to assist all local postal service providers, the Division regularly publishes guidance in relation to “protecting the integrity of mail” which includes information on best practice to assist local postal service providers in establishing the necessary mail integrity procedures that are, among other things, suitable for their own individual needs and size of their network and workforce.

The GRA is also of the view

that each individual postal service provider should have the freedom and flexibility to tailor their own procedures and policies to their own circumstances when it comes to maintaining the confidentiality of correspondence. The main areas covered in the GRA's guidelines and whereby operators may exercise an element of flexibility in terms of the standards imposed are:

- Recruitment;
- Disciplinary Procedures;
- Agents and Sub-contractors;
- Security of mail; and
- Information and Reporting Requirements.

iii. Quality of Service Requirements - Local Mail

In accordance with the provisions of Section 4O (1) of the Act, the GRA has a duty to set quality standards for local mail by taking into account and striking a balance between Gibraltar's unique topographical and geographical circumstances and how this would relate to any given postal service provider insofar as it related to the collection, sorting and subsequent delivery of mail. In doing so, the GRA, upon consultation with the RGPO often establishes this delivery standard and reviews this periodically in order to ensure the provision of a good quality universal postal service.

The quality-of-service target for 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.

The standard for the next day delivery of local mail has been set as follows:

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

iv. Performance Monitoring - Gibraltar Public Services Ombudsman

Section 4N(4) of the Act requires independent performance monitoring of the established quality standards to be carried out. To date, this task has been carried out successfully by the Gibraltar Public Services Ombudsman (the “GPSO”) who, with the approval of the GRA, has acted as the independent body tasked with monitoring quality of service targets for local mail throughout Gibraltar.

The GPSO are 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 GPSO fulfils this task by sending out numerous test letters to a broad spectrum of members of the public who then report receipt of these letters. This ensures that the full local end-to-end network, which involves the collection of mail locally from various access points and subsequent processing and delivery within Gibraltar, is monitored.

With the above in mind, it is vital to note that the RGPO has previously raised concerns over the accuracy and reliability of the performance statistics provided, due to the potential for error, which it believes are inherent in the current monitoring system. In response to this, the GRA advised the RGPO to meet with the GPSO in order to tackle this

directly by revising the manual procedures currently in place.

The GPSO and RGPO have since been exploring the viability of incorporating the use of automated systems that would enhance the overall accuracy of all performance results moving forward, however, the constraints imposed by COVID-19 have had a detrimental impact on the implementation of such a system. The GRA understands that discussions are still ongoing in this regard.

The GRA often uses the statistical data collected to assist the RGPO in making informed decisions on its operations, as well as conceiving and implementing operational improvements that are ultimately designed to assist them in meeting the established quality of service standards.

Figure 1 is an illustration of the

full end to end delivery standards of local mail as monitored by the GPSO. The RGPO has fallen short of meeting their 95% delivery target for next day delivery within Gibraltar, with a performance result of 75% in March 2022. This represents a decrease of 9% in respect of next day delivery standards during the period under review when compared to the 84% achieved during April 2021.

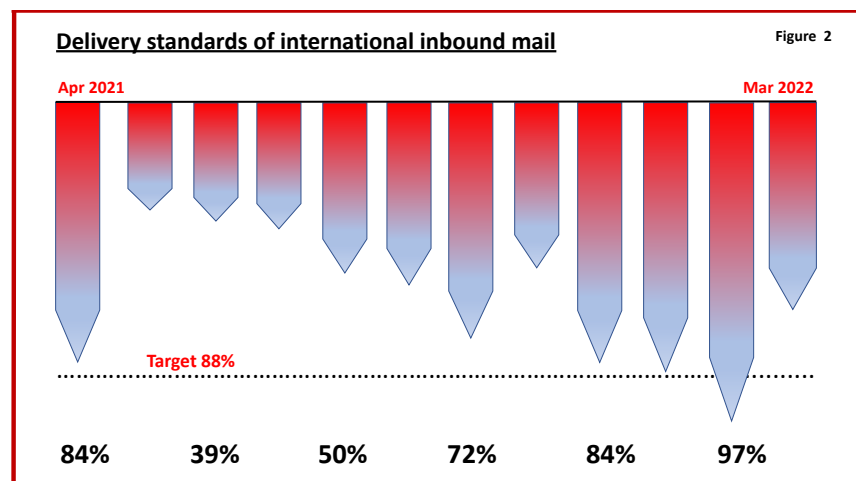
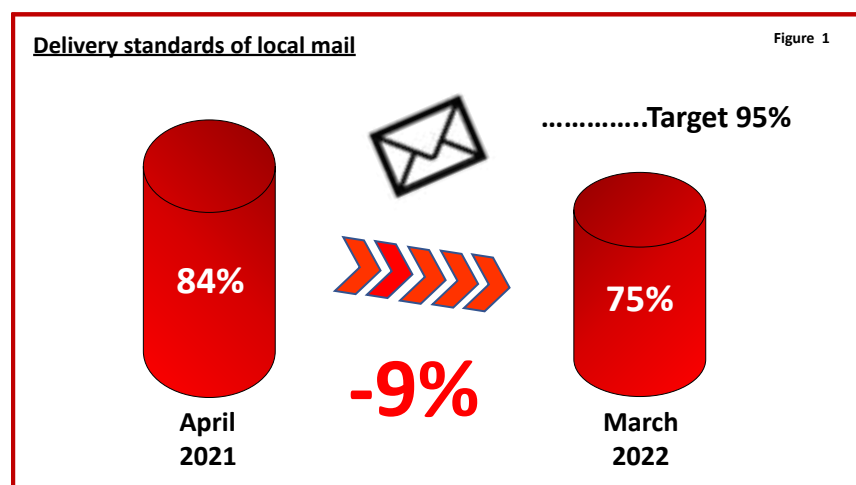
The RGPO has informed the GRA that this was once again largely due to the ongoing COVID-19 pandemic which negatively impacted staffing levels and increased staff absences due to related sickness or self-isolation requirements. The GRA will therefore, continue to work closely with the RGPO to make the necessary operational and regulatory improvements with the ultimate goal of meeting the

required performance standards for next day delivery within Gibraltar.

v. International Inbound Delivery within Gibraltar

As the USP for Gibraltar, the RGPO has a duty to monitor its quality of service and in addition to the mail monitoring by the GPSO, the RGPO has also been part of the Global Monitoring System (the "GMS") since 2011. This is an independent performance measurement system managed by the Universal Postal Union (the "UPU"). The UPU coordinates postal policies among member nations and aims to streamline the global network with a view to maintaining adequate postal services and finding ways to improve 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. The test items are identified and logged automatically and once delivered, this information is immediately sent to the UPU to determine the quality of service being provided. This information is used to determine remuneration between postal administrations, according to their performance standards. In other words, the performance results generated by the GMS are linked to the setting of terminal dues payments. This in turn determines the payment rates in mail exchanges between countries and subsequently



affects remuneration between postal operators, based on their performance.

The local delivery target established by the UPU for this purpose is 88% (D+1).

Figure 2 shows the RGPO's performance results in respect of next day delivery of international inbound mail within Gibraltar during the period under review. It is evident that the RGPO has been unable to consistently meet the required performance target of 88%. Once again this highlights the significant and adverse impact the COVID-19 pandemic has had on the RGPO's performance. However, it is also clear from Figure 2 that towards the end of the 2021 period and beginning of 2022 period, the RGPO saw encouraging signs of steady improvements in its performance. The RGPO assures the GRA that the recommencing of commercial flight schedules and fewer instances of employees requiring self-isolation has contributed to this positive turn.

vi. Access Points

In accordance with the provisions of section 4A of the Act, the GRA has a duty to ensure that every user has the right to a universal service involving the permanent provision of a postal service of specified quality at all points in Gibraltar. The GRA shall, to this end, ensure that the density of the points of contact and of the access points takes account the needs of users. In this regard, an access point essentially means physical facilities, including letter boxes and/or pillar boxes which are provided for the public either on the public highway or at the premises of the postal service provider in question, in this case the RGPO.

With the above in mind, the RGPO, in consultation with the GRA, has introduced six new pillar-boxes in various key locations around Gibraltar in order to make the universal postal service more accessible to the community. The locations described above were Irish Town, South Pavilion Road, Prevost House, Alameda Parking, Elliot's Battery, and Beach View Terraces. It is vital to note that this is in addition to the large number of pre-existing access points already located around Gibraltar.

Furthermore, all red historic pillar-boxes in Gibraltar were refurbished during the period under review and are being maintained regularly, as they also form an integral part of Gibraltar's heritage and British identity.

The image below illustrates the location of all the current access points across Gibraltar in compliance with the universal service obligation described above.

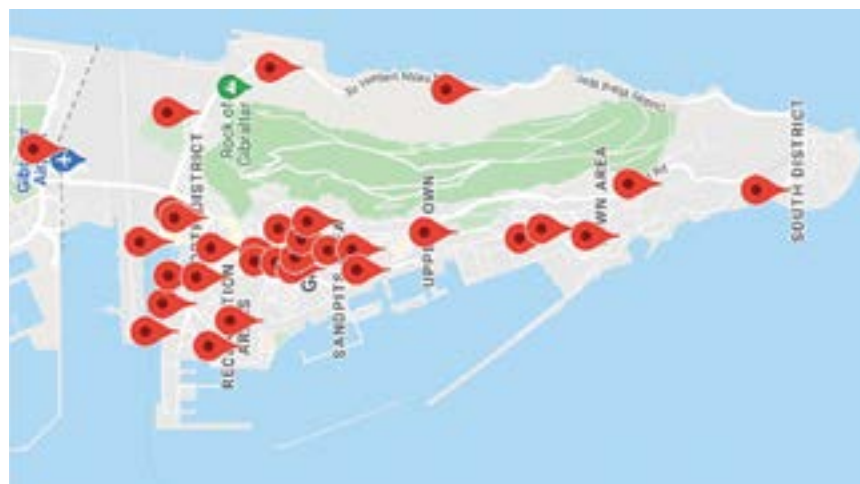
vii. RGPO Technology Updates - E-Commerce and Customs Clearance

The huge increase in online shopping, e-commerce and the use of e-mail has meant that the amount of traditional letter

mail being sent has declined significantly. As expected, online purchasing has significantly increased the volumes of parcels, so the RGPO have made the necessary changes in order to adapt their operations to better serve the public's needs with the use of new technology.

Improvements were made to the online services provided by the RGPO with the launch of the electronic EPOST notification service. The EPOST system now has 9500+ registered customers who have opted to receive all their parcel and registered mail notifications electronically. This reduces the amount of notification cards printed which is in line with the RGPO's green policy and speeds up the delivery process since the email is sent automatically within 2 hours of the parcel being registered in the system, instead of the recipient having to wait for a notification card to arrive in the post. Furthermore, reminders are sent after 7, 14, 21 and 28 days and recipients can opt to have the parcel delivered to their homes or business, at an additional charge, should they so wish.

Furthermore, due to a 2021 UPU and World Customs Organisation led initiative to improve security and safety in the postal sector, all customers sending shipments,



containing goods of any value or weight to worldwide destinations, are now required to provide accurate customs documentation electronically. This requirement does not apply to letters, postcards, or mail with documents. The electronic documentation essentially contains information about the sender, the recipient and the contents of the item being sent. This data is captured and subsequently forwarded electronically to the destination postal administration and their customs officials.

In addition to enhancing mail conveyance security and safety, it will also help automate and inevitably speed up manual processes, resulting in a more efficient customs clearance process. The digital transmission of this information is a statutory and international requirement applicable to all postal administrations across the globe and it is the sender's responsibility to ensure the customs declaration is completed correctly. This entire process will ultimately speed up customs clearance and distribution, as well as facilitate e-commerce, control prohibited and restricted goods and improve product safety. The GRA previously published "Notice No. 10-14 – Guidelines for Protecting the Integrity of Mail", which also provides guidance in relation to the transport of dangerous and restricted goods. Any items received internationally without accurate customs information may be delayed or returned and subject to further charges.

viii. RGPO Website Updates, Mobile App & Online Sale of Stamps

In order to ensure that customers

are made aware of the customs requirements mentioned above, and in order to guarantee that they are accessible, the RGPO has updated its website and included a section so that users may complete the information before coming to the Post Office. For all postal users that need to purchase stamps, the RGPO is offering them the opportunity to purchase the stamps online and have this delivered the next day to their home or office at no additional cost thus avoiding the likelihood of customers having to queue at the Post Office.

In the interests of further strengthening accessibility for all users, the RGPO also created a mobile app which is available for Android and Apple devices. Furthermore, the RGPO has gone as far as placing computers at the Main Street Post Office to cater for elderly users or those users who may not have access to a computer in their homes.

ix. COVID-19 – Return to New Normal

Despite all the flight and transport disruptions throughout 2021 and the many logistical problems faced during COVID-19 by postal operators worldwide, the RGPO was able to maintain its service to the community during the pandemic, connecting Gibraltar

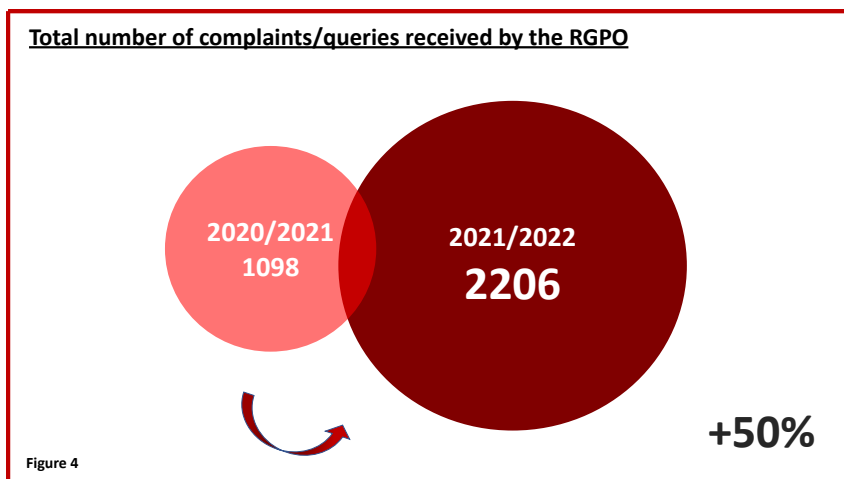
to 192 countries worldwide, albeit with significant delays in some instances.

With the above in mind and, as the world is slowly but surely emerging from the COVID-19 pandemic and returning to the "new normal", it is safe to say that COVID-19 is now having a declining impact on postal services when compared to previous years. The RGPO has committed to focussing on the future by re-introducing their flagship EMS Express Mail Service in 2022 and 2023, which will now be expanded to reach more countries than ever before.

x. Complaints and Dispute Resolution

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

Where a complaint has not been satisfactorily resolved, the customer may then file a complaint with the GRA. However, the GRA can only consider genuine



and reasonable complaints regarding postal services offered in Gibraltar by authorised service providers.

In accordance with the provisions of Section 4P(8) of the Act, the RGPO, as the designated USP is required to publish information on the number of complaints received and the manner in which they have been dealt with.

The following chart is a breakdown of the number of complaints received by the RGPO during this reporting period and these figures are updated and published regularly on the RGPO's website:

As illustrated in Figure 4, the number of complaints and queries that the RGPO dealt with has practically doubled from 1098 during the last reporting period, to 2206 in the current reporting period. This represents a 50% increase in the number of complaints and queries currently handled by the RGPO. However, with the above in mind the RGPO informed the GRA that a large proportion of these complaints or queries were not solely regarding the RGPO's performance but were also in relation to miscellaneous enquires such as Gibraltar Car Parks payments, Covid Certificates, customs charges, opening hours, website/Epost features and free postal services

to the Ukraine.

Figure 5 is an illustration of the number of complaints and queries handled by the RGPO and more specifically, how many of these related to lost mail re-directions and tracking information.

Importantly, only 31% of complaints and queries were in relation to these categories. This figure is statistically significant as it represents a huge decrease when compared to the previous reporting period which found that 95% of complaints related to speed, lost mail and tracking information. This large percentage decrease reinforces the fact that, both the RGPO as well as the postal industry as a whole may be slowly emerging from the negative effects of the COVID-19 pandemic.

During the 2021/22 period, the Division also dealt with numerous postal related enquiries and complaints, a number of which were in respect to COVID-19 related issues and delays. However, the Division was able to offer advice, as well as provide information and guidance to members of the public. The queries were eventually satisfactorily resolved, without the Division having to launch formal investigations. When dealing with these enquiries and complaints, the Division

exercised its discretion and afforded the RGPO a reasonable degree of flexibility given the extraordinary circumstances in cases when the queries were in some way related to COVID-19 and its subsequent impact on the RGPO's operational performance.

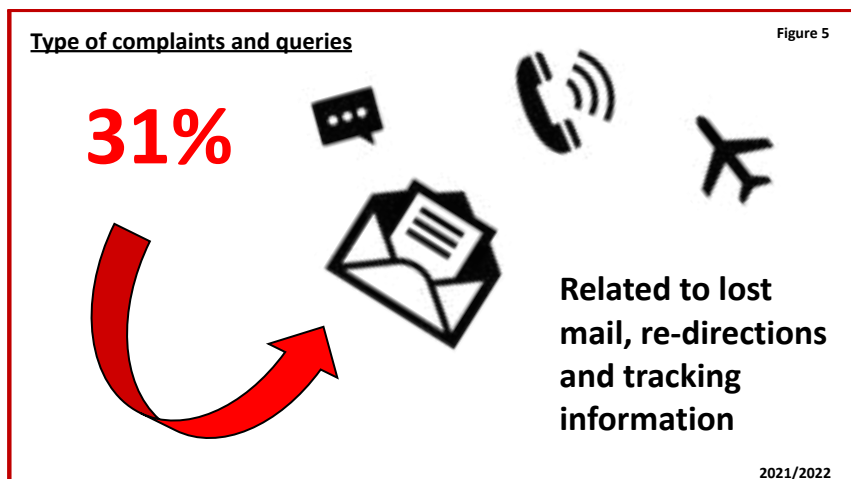
xi. RGPO and the War in Ukraine

On 4th March 2022, the RGPO announced that it would be waiving all postage charges for mail addressed to the Ukraine in light of the recent war. This will also include humanitarian aid parcels under 5kg.

xii. Internet Revolution and Liberalisation of the Postal Sector

The internet revolution has transformed the economics of postal services around the world. It will come as no surprise that the internet has reduced the demand for letter mail because emails are a generally free and quicker alternative means of communication, thereby reducing revenue collected for letter mail significantly. On the other hand, it has boosted the demand for parcel mail as online shopping has taken a growing share of the retail market, potentially to the detriment of the high street retail stores.

The RGPO has no choice but to rise to meet these challenges posed by the current state of the postal market both locally and internationally. From a regulatory perspective the RGPO has made significant operational changes in order to meet the requirements of the fast-growing market for parcels. In addition to this, the liberalisation



of the market has also had a huge impact due to the fact that alternative operators are able to provide similar services at more competitive prices and in some instances have the option or freedom to “cherry pick” the most lucrative products and destinations as dictated by customer demand. The designated USP is not afforded this luxury and is instead required to provide a world-wide service regardless of attractiveness from a revenue standpoint. As a result, designated USP’s have been under pressure to find ways of reducing the cost of providing universal service, and this is a policy option which is under discussion both in Europe and around the world.

With the above in mind, this huge shift in the postal services sector is something that the GRA as well as other regulatory bodies around the world are well aware of and must take due account of, if and when regulatory intervention is needed.

xiii. Social Media

The Division uses social media platforms to ensure that consumers are provided with up-to-date information or appropriate guidance, where applicable, on numerous topics of interest which are relevant and relate to postal services.

The Division has previously published information and guidance, by way of social media slides on the following topics:

- COVID-19 related matters and subsequent operational impacts;
- Sale of stamps & pricing;
- Addressing properly;
- Articles for the Blind;
- Redirection of Mail;

- Access Point locations and changes;
- Changes to opening times throughout the year; and
- Latest recommended posting dates for Christmas etc.

xiv. The Register

The Regulations require the GRA to establish and maintain a register of authorised persons and Individual Licences granted by the GRA under Part I of the Act.


The Register can be inspected at the GRA’s office and is also accessible on the GRA’s website.

xv. Revenue Collected

During the 2021/22 period and in accordance with the provisions of the Act, the total amount collected by the GRA in respect of General Authorisations was £1,250.00.

The total amount collected by the GRA in respect of the Individual Licences issued to the RGPO was £5,000.00.

This has brought the total revenue for Individual Licences and General Authorisations for 2021/22 period to £6,250.00.

A low-angle shot of graduates in black gowns and caps, cheering and throwing their caps into the air. The graduates are in the foreground, looking up with expressions of joy. Several black graduation caps with blue tassels are seen flying through the air against a bright, overcast sky. The graduates are holding rolled-up white diplomas tied with red ribbons. The overall mood is celebratory and triumphant.

HIGHER EDUCATION REGULATION

Introduction

The University of Gibraltar Act 2015 (the “Act”) commenced on 2nd July 2015 and gave powers to the Minister for Education to designate a quality assurance authority, the Gibraltar Authority for Standards in Higher Education (the “GASHE”), and a regulatory authority, the Gibraltar Higher Education Commission (the “GHEC”).

On 31st May 2018, the University of Gibraltar (Regulation and Accountability) Regulations 2018 (the “Regulations”) were commenced and the GRA was designated as both the GASHE and the GHEC.

The Higher Education Regulation Division (the “Division”) was set up to enable the GRA to comply with Part 11 of the Act and to perform the roles of both legal entities.

Regulatory Matters

i. Role and Responsibilities of the Higher Education Regulation Division

In accordance with the Act, the GASHE is required to:-

- a) establish criteria for the recognition of qualifications awarded by the University;**
- b) keep and maintain a register of the University’s qualifications; and**
- c) promote the quality and standards of university education and training through a system of quality assurance of courses,**

academic programmes, and awards.

As required under the Regulations, on 1st June 2018, the GHEC issued a Memorandum of Regulation (“MoR”) to the University setting out how:-

- a) the quality and standards of education in the University would be monitored;**
- b) compliance by the University with its functions, duties, and obligations under the Act would be monitored;**
- c) the use by the University of its funds including any public funds provided to it, would be monitored;**
- d) other aspects of the University’s performance would be monitored;**
- e) the University is expected to demonstrate effective governance and accountability; and**
- f) the University’s autonomy and academic freedom are maintained.**

ii. Memorandum of Regulation

One of the objectives of the Regulations was to provide the Division with the necessary powers to perform the roles of the GHEC and the GASHE. However, the Regulations also included a MoR that the Division requires to review from time to time in consultation with the University. The MoR has recently been revised and subject to approval will come into effect in the near future.

The MoR sets out the process by which the University will provide annual documentation to support their developments

and improvements in all aspects including governance, facilities, quality of courses and sustainability.

As part of its responsibilities as the GHEC, the Division carries out a desktop analysis of the documentation provided and, with the assistance of the University Advisory Board, provides recommendations to the University. Furthermore, the Division as the GASHE, continues to liaise closely with the University to determine a mutually acceptable schedule of internal and external audits to assess the quality of the courses being provided.

iii. University Advisory Board

On June 2018, the GRA, in its role as the GASHE, setup the University Advisory Board (the “UAB”). The provisions to appoint an advisory board are set out in section 48 of the Act. The aim of the UAB is to provide advice and support to the CEO of the GRA in his role as the head of the GHEC and the GASHE.

Under its terms of reference, the UAB is comprised of four independent members with expertise in governance, regulation, and higher education, and is required, amongst other things, to advise the GRA on the design and operation of the regulatory framework and the MoR.

During this reporting year, the UAB met twice, and the meetings were conducted virtually due to the COVID-19 pandemic.

The Division aims to meet with the University to discuss the annual risk assessment and any areas of concern once the analysis of the relevant documentation

is completed. The analysis takes into consideration the expert opinions of the members of the UAB. Overall, the GRA liaises closely with the University and maintains a good working relationship.

iv. Graduations

The University's second graduation ceremony was held on 4th December 2021, during which 35 taught programme students received their awards after successfully completing their studies. The ceremony was held at the Europa Point Campus and was split into two ceremonies, the first being for students who completed their Postgraduate Certificate in Education, and the second for students of the BBA, MBA, MSc Marine Science & Climate Change courses. The ceremonies were streamed online and can be viewed on the University website.

v. Quality Assurance

The Regulations and the MoR require the University to undergo a quality review by Spring 2022. The University arranged to undertake the International Quality Review (the "IQR") in November 2021, well before the deadline stipulated in the MoR.

The IRQ offers institutions outside the UK the opportunity to have a review done by the UK's Quality Assurance Agency for Higher Education (the "QAA"). The review benchmarked the institution's quality assurance processes against international quality assurance standards set out in Part 1 of the Standards and Guidelines for Quality Assurance in the European Higher Education Area (the "ESG").

The University provided the QAA review team with a self-evaluation document and additional supporting evidence prior to the four-day online review visit, which involved meetings with the Vice-Chancellor, senior management team, academic staff, professional support

staff, students, alumni and the University partner. The review team also conducted a virtual observation of the University's online systems.

The QAA concluded that the University of Gibraltar had met all 10 standards set out in part 1 of the ESG and, as part of their findings, the review team identified four areas of particular good practice:

- the University's Quality Handbook;
- module and programme evaluation processes;
- close-working partnerships with other Gibraltar-based organisations;
- and the University's effective use of externality.

The IRQ review was the culmination of three years of preparatory work which has successfully resulted in the University being fully accredited by the QAA, which is a recognised mark of excellence and should provide trust and confidence for students and the University's partners.



Photograph provided by the University of Gibraltar



The University should shortly be publishing an Action Plan of improvements based on recommendations made by the QAA and be able to use the IQR accreditation quality mark on their website and documents.

**vi. University of Gibraltar
Higher Education
Courses 2021 -2022**

Postgraduate

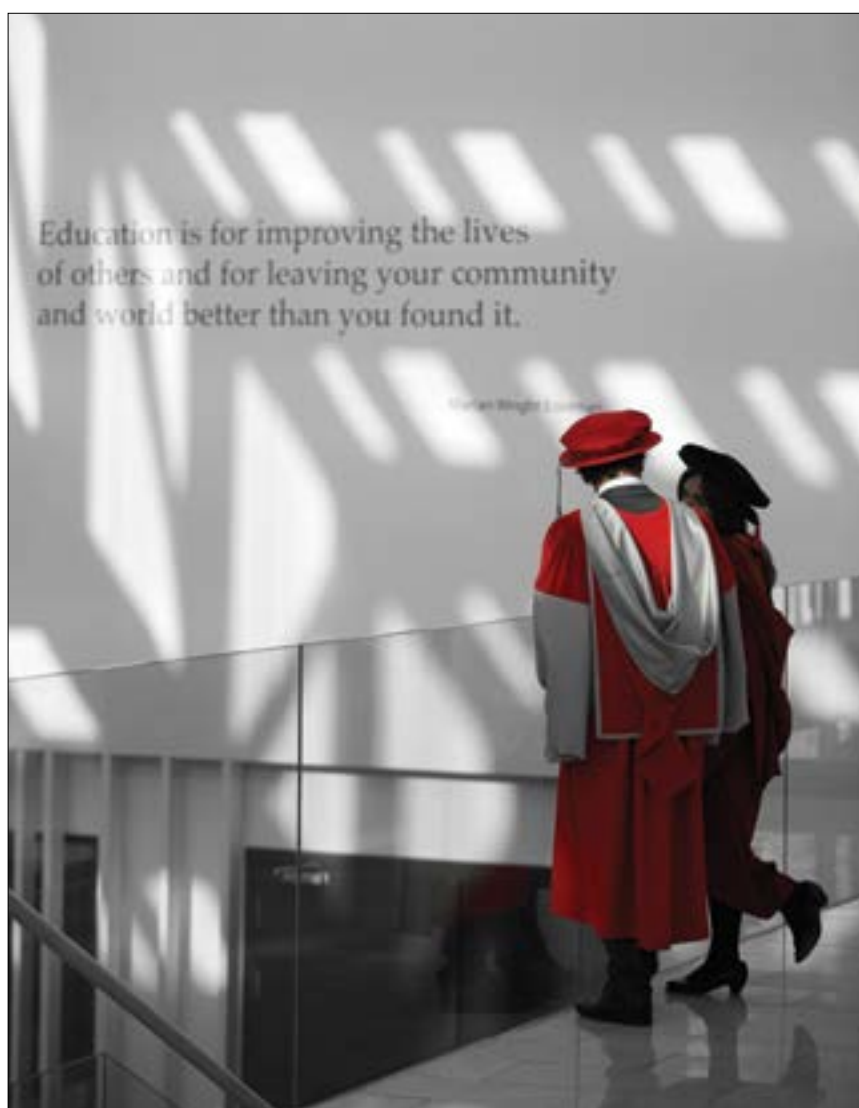
MSc in Marine Science and Climate Change;
Masters of Business Administration;
Masters in Leadership and Management; and
Postgraduate Certificate in Education (PGCE).

Undergraduate

Bachelor of Business Administration; and
BSc Nursing.

PhD

There are 19 students undergoing research programmes.



Photograph provided by the University of Gibraltar

CYBER SECURITY COMPLIANCE



Introduction

Directive 2016/1148 on the security of network and information systems across the EU (the “NIS Directive”) was transposed into Gibraltar law in 2018, as Part 7 of the Civil Contingencies Act 2007 (the “Act”).

The NIS Directive was required to improve national cyber security capabilities of essential services throughout the EU, to build cooperation, and promote a culture of risk management and incident reporting among the Member States.

i. The Role of the Competent Authority

The GRA was appointed as the competent authority for the security of network and information systems in respect of operators of essential services (“OESs”) and Digital Service Providers (“DSPs”), under section 38 of the Act. The GRA formed the Cyber Security Compliance Division (the “Division”) with the following roles and responsibilities:

- a) Regulating, supervising, and enforcing compliance;
- b) Establishing a list of operators of essential services;
- c) Establishing a list of digital service providers;
- d) Investigating breaches;
- e) Issuing guidance to OESs or DSPs;
- f) Drawing up Codes of Practice;
- g) Recording and reporting incident notifications; and
- h) Conducting or organising inspections.

Furthermore, the GRA was designated as the single point of contact (the “SPOC”) for Gibraltar, under section 38(4) of the Act. The SPOC’s role largely concerns cross-border cooperation where incidents affect more than one Member State. Even though the obligations to report to the EU are no longer applicable due to the UK’s departure from the EU, the UK continues to participate and collaborate with the European Network and Information Security Agency (the “ENISA”) and with the EU Member States.

landscape and discuss how the UK should continue to defend itself from online threats. Most of the conference presentations and highlights are still available on YouTube.

Regulatory Matters

The following is an outline of the regulatory matters which the Division has been working on since it was designated as the competent authority by the Act.

International Participation

i. CYBERUK Conference 2021

The CYBERUK conference, which is the UK Government’s flagship cyber security event organised by the National Cyber Security Centre (the “NCSC”), was scheduled to be hosted in Cardiff, but due to the pandemic, the conference was held as a virtual event on 11th -12th May 2021. The virtual event allowed participants to access world-class expertise on the cyber

i. Reporting of Incidents

The designated OESs and DSPs are required under sections 42(1) and 43(3) of the Act respectively, to notify the Division of any incident that may have a substantial impact on the provision of the essential service.

The reporting of incidents is done via the NIS reporting form available on the GRA’s website and should be submitted as soon as possible but no later than 72 hours after becoming aware of the incident. The GRA is currently working on improvements to the



incident reporting process and guidance.

The NIS reporting form was designed for major incidents, but it can also be used by OESs and DSPs or any other related company or body to alert the Division of potential cyber incidents and attacks that could potentially impact Gibraltar.

ii. Report on Cyber Incidents

The European Cooperation Group (the "ECG") collates reports on the quantity and nature of cyber incidents, to determine the main cyber threats across the EU and provide recommendations for mitigating the effects and even blocking specific cyberattacks.

In accordance with the provisions of section 40(3) of the Act, the Division submitted an incident report to the NCSC, for this to be collated with the NCSC's report to the ECG.

The UK considers cyber security of critical national importance, and it will continue to co-operate and collaborate with European countries and security organisations worldwide.

iii. Report on Designation of Operators of Essential Services

The GRA is responsible for designating OESs insofar as their network and information systems are essential for the maintenance of critical societal or economic activities in Gibraltar.

The Act requires the GRA to assess the following sectors:

- Energy;
- Transport;
- Banking;

- Financial Market Infrastructures;
- Health Sector;
- Drinking Water Supply and Distribution;
- Digital Infrastructure.

The Division has identified and designated five OESs by way of a Notice under section 35(2) of the Act, as providers of one or more essential services in Gibraltar. In accordance with section 35(9) of the Act, the biennial review of the different sectors will be conducted throughout next year.

iv. Designation of Digital Service Providers

DSPs, just like OESs, must ensure the level of security of their systems are appropriate to the risks identified and as far as possible minimise the impact of any cyber incident. DSPs must also notify the GRA of any incident which has a significant impact on the provision of their digital service. The Division is currently investigating the different services being provided locally to identify any DSPs that meet the required thresholds or service descriptions and need to comply with the Act.

v. Assessment Framework

The Act requires OESs to take appropriate and proportionate technical and organisational measures to manage the risks to the security of network and information systems that support the delivery of essential services. The Cyber Assessment Framework (the "CAF") encourages OESs to meet a set of fourteen NIS cyber security principles written in terms of outcomes. The CAF is an assessment tool that specifies what needs to be achieved rather than what needs to be done. The Division required all OESs to complete their own preliminary risk assessments in order to gain an overview of the levels of cybersecurity in each sector. During the course of this year, the GRA will be meeting with all OESs as part of the consultation process which will define the scope of future CAF assessments and the thresholds for incident reporting.

The CAF is based on four main objectives and structured into specific principles that are based on sets of indicators of good practice. For further information on the assessment process and the CAF, please visit the Cyber Security Compliance section on the GRA's website.



vi. Cyber Essentials

Cyber Essentials is a simple but effective UK Government-backed scheme that will help to protect organisations, whatever their size, against a full range of the most common cyberattacks.

Cyber Essentials Certification shall be accepted by the Division as part of the supporting documentation required from OESs and DSPs to demonstrate the level of security in place and the measures taken to minimise the effects of cyber incidents, which is appropriate for the criticality of their essential services.

For more information on Cyber Essentials Certification, please refer to their website <https://www.cyberessentials.ncsc.gov.uk/> which provides a directory of accreditation bodies that can assess any organisation and provide the certification.

vii. Liaison with other Bodies

The Division is liaising with the designated OESs to identify the possible cyber security risks that need to be addressed in each sector. As part of our requirements and in accordance with sections 38 and 40 of the Act, the Division is cooperating closely with the Gibraltar Computer Security Incident Response Team and with Gibraltar law enforcement authorities. Internationally, as the designated SPOC, the Division will continue to liaise with the UK's Government Communications Headquarters and NCSC for any cross-border issues.

The Division is currently also working with Her Majesty's Government of Gibraltar, the Civil Contingencies Coordinator, and industry experts to ensure that all guidance and measures taken will lead to better standards of cyber security.





GRA

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