

Naghti l-kunsens tiegħi.

(L.S.)

GEORGE ABELA
President

4 ta' April, 2014

ATT Nru. VIII tal-2014

ATT biex jemenda diversi liġijiet li għandhom x'jaqsmu mal-komunikazzjonijiet u biex jipprovdu dwar materji anċillari għalihom jew li għandhom x'jaqsmu magħhom.

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2014 li Jemenda l-Liġijiet tal-Komunikazzjonijiet. Titolu fil-qosor u bidu fis-sehħ.

(2) Dan l-Att għandu jidhol fis-sehħ f'dik id-data li l-Ministru responsabbli għall-komunikazzjonijiet jista' b'avviż jistabbilixxi fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal disposizzjonijiet differenti u għanijiet differenti ta' dan l-Att.

TAQSIMA I

Emendi għall-Att dwar Servizzi Postali

2. Din it-Taqsima temenda l-Att dwar Servizzi Postali, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar Servizzi Postali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali". Emenda tal-Att dwar Servizzi Postali. Kap. 254.

3. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 2 tal-Att prinċipali.

(a) fil-verżjoni bl-Ingliż, fit-tifsira "parcel", minflok il-kelma "item" għandha tidhol il-kelma "article";

(b) fit-tifsira "operatur postali" minflok il-kliem "kull min ikollu liċenza" għandhom jidhlu l-kliem "kull min ikun awtorizzat";

(ċ) minflok it-tifsira "provvditur ta' servizz universali" għandu jidhol dan li ġej:

" "provvditur ta' servizz universali" tfisser l-operatur postali li jipprovdi s-servizz postali universali jew partijiet minnu f'Malta skont ma jista' jissemma' mill-Awtorità b'avviż fil-Gazzetta;"

(d) it-tifsira "servizzi riservati" għandha tithassar; u

(e) minnufih wara t-tifsira "servizzi provduti b'tariffa għal kull servizz" għandha tiżdied din it-tifsira ġdida li ġejja:

" "servizz universali" għandu jkollha t-tifsira mogħtija lilha skont l-artikolu 17;"

Emenda tal-artikolu 8 tal-Att prinċipali.

4. L-artikolu 8 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Liċenzi individwali u awtorizzazzjonijiet ġenerali.

8. (1) L-awtorizzazzjoni biex persuna topera jew tipprovdi servizzi postali għandha:

(a) dwar servizzi fl-ambitu tas-servizz universali biex tiġi garantita konformità mal-htigiet essenzjali u biex jiġi żgurat il-provdiment tas-servizz universali, tkun permezz ta' liċenza individwali mogħtija mill-Awtorità skont dan l-Att; jew

(b) (b) dwar servizzi li joħroġu 'l barra mill-ambitu tas-servizzi universali biex tiġi garantita konformità mal-htigiet essenzjali, ssir permezz ta' awtorizzazzjoni ġenerali li tiġi avzata lill-Awtorità skont dan l-Att:

Iżda operatur postali li jkun awtorizzat biex jipprovdi servizzi postali skont dan l-Att għandu jipprovdi biss dawk is-servizzi postali skont l-awtorizzazzjoni li jkun igawdi.

(2) Il-proċeduri stipulati għall-hruġ u, jew l-għoti ta' xi awtorizzazzjoni taht dan l-Att għandhom ikunu trasparenti, aċċessibbli, mhux diskriminatorji, preċiżi u mhux ambigwi u għandhom jiġu pubblikati minn qabel u bbażati fuq kriterji oġġettivi."

5. L-artikoli 9, 9A, 10 u 13 tal-Att prinċipali għandhom jiġu mħassra.

Thassir tal-artikoli 9, 9A, 10 u 13 tal-Att prinċipali.

6. L-artikolu 17 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 17 tal-Att prinċipali.

"Servizz universali.

17. (1) L-utenti li jkunu fejn ikunu f'Malta għandhom igawdu kull jedd għal servizz universali li jkun jinvolti l-provdiment permanenti ta' servizz postali ta' dik il-kwalità li tista' tiġi preskritta mill-Awtorità, bi prezzijiet li l-utenti kollha jistgħu jilħqu.

(2) Is-"servizz universali" fil-kuntest tal-provdiment ta' servizzi postali għall-finijiet ta' dan l-Att tfisser:

(a) li f'kull ġurnata tax-xogħol u mhux anqas minn hamest ijiem fil-ġimgħa, hlief f'dawk iċ-ċirkostanzi li jitqiesu li jkunu eċċezzjonali mill-Awtorità, ikun hemm mill-inqas:

(i) darba l-ġbir ta' oġġetti postali, u

(ii) konsenja waħda lil kull persuna f'Malta d-dar jew fil-fond tagħha, hekk kif l-Awtorità tista' tqis li jkun adatt, taht dawk il-kondizzjonijiet li hi stess tista' tistabbilixxi minn żmien għal żmien, f'istallazzjonijiet adatti; u

(b) li jiġu provduti dawn is-servizzi li ġejjin:

(i) il-ġbir, issortjar, trasport u distribuzzjoni ta' oġġetti postali sa piż ta' żewġ kilogrammi;

(ii) il-gbir, issortjar, trasport u distribuzzjoni ta' oġġetti postali sa piż ta' għoxrin kilogramma;

(iii) servizzi għal oġġetti reġistrati;

(iv) servizzi għal oġġetti assigurati ġewwa Malta u lejn u minn kull pajjiż li, bħala firmatarji tal-Konvenzjoni Postali Universali tal-Unjoni Postali Universali, jiddikjaraw ir-rieda tagħhom li jhallu jidhlu dawk l-oġġetti kemm reċiprokament kemm f'direzzjoni waħda biss;

(v) servizzi, mingħajr ħlas, għall-għomja jew għal persuni parzjalment b'vista batuta skont ma jista' jiġi stabbilit mill-Awtorità; u

(vi) servizz baziku minn ħanut ma' Malta kollha.

(3) Is-servizz universali kif imfisser f'dan l-artikolu jkopri sew servizzi interni sew transkonfini.

(4) Għall-għanijiet tal-provdiment ta' servizz universali, l-inqas u l-oġġla qisien għal oġġetti postali għandhom ikunu dawk stabbiliti fid-dispożizzjonijiet rilevanti adottati mill-Unjoni Postali Universali, kif emendati minn żmien għal żmien."

Żieda tal-artikoli 17A u 17B godda mal-Att prinċipali.

7. Minnufih wara l-artikolu 17 tal-Att prinċipali għandhom jiżiedu dawn l-artikoli 17A u 17B godda li ġejjin:

"Tismija ta' provdituri tas-servizz postali universali.

17A. (1) L-Awtorità tista' b'avviż fil-Gazzetta ssemmi lil xi operatur postali wieħed jew aktar biex jipprovdu elementi differenti tas-servizz universali u, jew ikopru partijiet differenti tat-territorju nazzjonali, u meta tkun qegħda tagħmel dan l-Awtorità għandha tistabbilixxi wkoll id-drittijiet u l-obbligi li japplikaw għall-operatur postali involut:

Iżda l-Awtorità tista' b'avviż fil-Gazzetta, tirtira, temenda jew tissospendi kull tismija magħmula taht dan is-subartikolu, sakemm qabel id-data effettiva ta' kull irtirar, emenda jew sospensjoni bħal dawk, l-Awtorità tista', meta jkun japplika, issemmi lil xi operatur postali ieħor dwar is-servizz involut b'dawk l-irtirar, emenda jew sospensjoni.

(2) L-Awtorità tista' tiżgura l-provdiment ta' servizzi universali billi tikseb dawk is-servizzi skont ir-regoli u regolamenti ta' ksib pubbliċi li jkunu japplikaw, permezz ta' djalogu kompetittiv jew proċeduri negozjati bil-pubblikazzjoni jew mingħajrha ta' avviż ta' kuntratt.

(3) Provditur ta' servizz universali għandu jimxi skont dawn il-htigiet li ġejjin dwar il-provdiment tas-servizz universali:

(a) jiggarrantixxi konformità mal-htigiet essenzjali;

(b) jiżgura li jingħata servizz identiku lill-utenti taht kondizzjonijiet li jistgħu jitqabblu;

(ċ) jiżgura li s-servizz ikun disponibbli assolutament mingħajr ebda għamla ta' diskriminazzjoni li toriġina minn raġunijiet ta' xorta politika, reliġjuża, razzjali, ta' ġeneru jew ta' ideoloġija;

(d) jiżgura li s-servizz ma jkunx interrott jew imwaqqaf hliet f'każijiet ta' forza maġġuri; u

(e) jiżgura li s-servizz jevolvi b'risposta għall-ambjent tekniku, ekonomiku u soċjali u għall-bżonnijiet tal-utenti.

Servizzi postali
fl-ambitu tas-
servizz
universali.

17B. (1) Servizz postali jkun fl-ambitu tas-servizz universali jekk:

(a) is-servizz ikun jaqa' taht id-deskrizzjoni tas-servizz universali, jew

(b) is-servizz ikun jaqa' taht id-deskrizzjoni tas-servizz universali hliet għall-fatt li -

(i) fil-każ ta' servizz li jikkonsisti fil-ġbir u l-konsenja ta' oġġetti postali, il-ġbir jew konsenja ma jsirux kull ġurnata tax-xogħol kif meħtieġ fl-artikolu 17(2)(a), jew

(ii) is-servizz ma jkunx provdut ma' Malta kollha, jew

(iii) is-servizz ma jġix provdut bi prezz li jista' jintlaħaq skont tariffa uniformi li tkun applika ma' Malta kollha skont l-artikolu 21, jew

(ċ) l-Awtorità tiddeċiedi li s-servizz postali jkun ta' xorta li, wara li jiġu kkunsidrati l-utenti tas-servizz postali, jista' raġonevolment jingħad li jkun jista' jinbidel reċiprokament ma' xi servizz kif deskritt fl-artikolu 17.

(2) F'dan l-artikolu kull referenza għal servizz tinkludi parti minn dak is-servizz."

Thassir tal-artikoli 18 u 20 tal-Att prinċipali.

8. L-artikoli 18 u 20 tal-Att prinċipali għandhom jiġi mħassra.

Emenda tal-artikolu 21 tal-Att prinċipali.

9. L-artikolu 21 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (f) tiegħu minflok il-kliem "taħt kundizzjonijiet simili;" għandhom jidhlu l-kliem "taħt kundizzjonijiet simili.", u

(b) il-paragrafu (g) tiegħu għandu jiġi mħassar.

Emenda tal-artikolu 23 tal-Att prinċipali.

10. Fl-artikolu 23 tal-Att prinċipali minflok il-kliem "jemenda l-Ewwel Skeda" għandhom jidhlu l-kliem "jemenda l-Iskeda".

Emenda tal-artikolu 66 tal-Att prinċipali.

11. Fil-verżjoni bl-Ingliż tal-proviso għas-subartikolu (1) tal-artikolu 66 tal-Att prinċipali, minflok il-kelma "items" għandha tidhlo il-kelma "articles".

Thassir tal-artikolu 75 tal-Att prinċipali.

12. L-artikolu 75 tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 77A tal-Att prinċipali.

13. Fil-verżjoni bl-Ingliż tal-paragrafu (e) tal-artikolu 77A tal-Att prinċipali, minflok il-kliem "to him" għandhom jidhlu l-kliem "to it".

14. Minflok is-subartikolu (2) tal-artikolu 80 tal-Att prinċipali għandu jidhol dan li ġej:

Emenda tal-artikolu 80 tal-Att prinċipali.

"(2) Kull tibdil, adattament u limitazzjoni għal xi liċenza individwali għandhom isiru mill-Awtorità skont id-dispożizzjonijiet ta' dan l-Att."

15. Is-subartikolu (2) tal-artikolu 81 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 81 tal-Att prinċipali.

(a) il-paragrafu (h) tiegħu għandu jiġi mħassar, u

(b) il-paragrafi (g) sa (u) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (h) sa (t).

16. L-Ewwel Skeda li tinsab mal-Att prinċipali għandha tiġi emendata kif ġej:

Emenda tal-Ewwel Skeda li tinsab mal-Att prinċipali.

(a) is-subparagrafu (a) tal-paragrafu 1 tagħha għandu jiġi mħassar u l-paragrafu (b) tagħha għandu jiġi enumerat mill-ġdid bħala l-paragrafu 1 kollu tagħha;

(b) il-paragrafu 2 tagħha għandu jiġi emendat kif ġej:

(i) minflok il-kliem "talloka l-ispejjeż lil kull settur tas-servizzi riservat u mhux riservat rispettivament bil-mod li ġej:" għandhom jidhlu l-kliem "talloka l-ispejjeż bil-mod li ġej:"; u

(ii) minflok is-subparagrafu (b)(iii) tiegħu għandu jidhol dan li ġej:

"(iii)meta ma jkunu jistgħu jinstabu la l-mizuri diretti u lanqas dawk indiretti ta' allokkazzjoni ta' spejjeż, il-kategorija ta' spejjeż għandha tiġi allokata abbażi ta' allokkatur ġenerali li jiġi komputat billi jintuża l-proporzjon tal-ispejjeż kollha direttament jew indirettament assenjati jew allokkati, min-naħa waħda, għal kull wiehed mis-servizzi universali u min-naħa l-oħra, għas-servizzi l-oħra;" u

(c) l-Ewwel Skeda għandha tissemma mill-ġdid "l-Iskeda".

17. It-Tieni Skeda li tinsab mal-Att prinċipali għandha tiġi mħassra.

Thassir tat-Tieni Skeda li tinsab mal-Att prinċipali.

TAQSIMA II
Emendi għall-Att għat-Twaqqif ta' Awtorità ta' Malta
dwar il-Komunikazzjoni

Emenda tal-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni. Kap. 418.

18. Din it-Taqsima temenda l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni, u għandha tinqara u tiftiehem haġa waħda mal-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 2 tal-Att prinċipali.

19. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minnufih wara t-tifsira "BEREC" għandha tizzied it-tifsira ġdida li ġejja:

" "Bord" tfisser il-Bord tal-Awtorità magħmul mill-President u l-membri mahtura skont l-artikolu 3;"

(b) it-tifsiriet "Direttorati" u "Direttur Ġenerali" għandhom jiġu mħassra;

(c) it-tifsira " "kumitat konsultattiv" jew "kumitat" " għandha tiġi mħassra;

(d) fit-tifsira "kuntrattur" minflok il-kliem "skont l-artikolu 5(5):" għandhom jidhlu l-kliem "skont l-artikolu 5(3):" u

(e) minflok it-tifsira "President" għandu jidhol dan li ġej:

" "President" tfisser il-President tal-Awtorità u tinkludi, fiċ-ċirkostanzi msemmija fl-artikolu 3(3), lill-Viċi President jew persuna oħra li tinhatar biex tagħmilha ta' President;"

Emenda tal-artikolu 3 tal-Att prinċipali.

20. L-artikolu 3 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(1) Għandu jkun hemm korp, li jkun magħruf bħala l-Awtorità ta' Malta dwar il-Komunikazzjoni, li l-affarijiet u x-xogħol tiegħu għandhom jitwettqu minn bord magħmul minn President u mhux anqas minn erba' u mhux aktar minn sitt membri oħra, skont id-dispozzjonijiet tal-artikolu 5.";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "membri

tal-Awtorità", għandhom jidhlu l-kliem "membri tal-Bord";

(ċ) fis-subartikolu (2) tiegħu, minflok il-kliem "membri l-oħra tal-Awtorità", għandhom jidhlu l-kliem "membri l-oħra tal-Bord";

(d) is-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem "membru tal-Awtorità", għandhom jidhlu l-kliem "membru tal-Bord";

(ii) fil-paragrafu (ċ) tiegħu, minflok il-kliem "membru tal-Awtorità", għandhom jidhlu l-kliem "membru tal-Bord"; u

(iii) il-proviso għall-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan li ġej:

"Izda l-Ministru jista' jirrinunzja għall-iskwalifika ta' persuna taht dan il-paragrafu jekk dik il-persuna tiddikjara dak l-interess u l-Ministru jkun jidhirlu li hemm raġunijiet validi għal dik ir-rinunzja:

Izda wkoll jekk il-Ministru jiddeċiedi li jagħti dik ir-rinunzja, id-dikjarazzjoni tal-persuna li tiddikjara l-interess tagħha, ir-rinunzja u r-raġunijiet għaliha għandhom jiġu pubblikati fil-Gazzetta.";

(e) is-subartikolu (5) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem "membru tal-Awtorità", għandhom jidhlu l-kliem "membru tal-Bord"; u

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem "membru tal-Awtorità", għandhom jidhlu l-kliem "membru tal-Bord";

(f) is-subartikolu (6) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(6) Membru tal-Bord jista' jitneħħa biss mill-kariga tiegħu mill-Ministru għal xi waħda jew aktar mir-raġunijiet li ġejjin:

(a) jekk il-membru, minhabba f'mard mentali

jew tal-ġisem jew kull kawża oħra ma jkunx effettivament jista' jkompli jwettaq dmirijietu bhala membru;

(b) jekk l-imġiba jew il-prestazzjoni tal-membri tniessel dubju dwar kemm huwa jkun idoneu jew kapaċi li jibqa' membru, b'mod partikolari dwar imġiba li tkun tolqot jew tista' tolqot l-fama, l-indipendenza jew l-awtonomija tiegħu, jew il-fama, l-indipendenza jew l-awtonomija tal-Awtorità;

(ċ) jekk il-membri jkun instab hati ta' reat kriminali li jinvolvi l-fiduċja pubblika, jew ta' serq jew frodi, jew li jkun xjentement laqa' għandu oġġetti miksubin b'serq jew frodi jew ta' tixhim jew ta' *money laundering*, hekk li l-Ministru jista' jissospendi lill-membri jekk huwa jkun qed jiġi investigat dwar reat kriminali; jew

(d) jekk il-Membri jonqos milli jwettaq dmirijietu għal żmien twil mingħajr ebda ġustifikazzjoni valida:

Izda minkejja dak kollu msemmi hawn qabel, ikun hemm kawża għat-tneħħija ta' membru jekk dak il-membri għal xi raġuni jonqos milli jwettaq dmirijietu, inkluż li jattendi għal-laqgħat tal-Bord, għal perjodu li jibqa' għaddej u li jeċċedi s-sitt xhur.";

(g) is-subartikoli (7) u (8) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (8) u (9);

(h) minnufih wara s-subartikolu (6) tiegħu għandu jidied dan is-subartikolu ġdid li ġej:

"(7) Jekk il-Ministru jneħħi xi membru tal-Bord mill-kariga tiegħu, dik it-tneħħija għandha tiġi pubblikata sa mhux aktar tard mid-data effettiva tat-tneħħija mill-kariga. Fl-istess ħin, il-Ministru għandu jipprovdi lill-membri involut stqarrija tar-raġunijiet għat-tneħħija tiegħu, u l-membri jkollu d-dritt li jitlob li d-dikjarazzjoni ta' raġunijiet għat-tneħħija tiegħu tiġi pubblikata, u f'dak il-każ il-Ministru għandu jippubblika dik l-istqarrija.";

(i) fis-subartikolu (8) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "membri tal-Awtorità" għandhom jidhru l-

kliem "membru tal-Bord"; u minflok il-kliem "membru temporanju tal-Awtorità" għandhom jidhlu l-kliem "membru temporanju tal-Bord"; u

(j) is-subartikolu (9) tiegħu, kif enumerat mill-ġdid, għandu jiġi emendat kif ġej:

(i) minflok il-kliem "Membru tal-Awtorità" għandhom jidhlu l-kliem "Membru tal-Bord";

(ii) minflok il-kliem "fl-ewwel laqgħa tal-Awtorità" għandhom jidhlu l-kliem "fl-ewwel laqgħa tal-Bord"; u

(iii) minflok il-kliem "jitnizzel fil-minuti tal-Awtorità" għandhom jidhlu l-kliem "jitnizzel fil-minuti tal-Bord".

21. L-artikolu 4 ta' Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 4 tal-Att prinċipali.

(a) il-paragrafi (r) u (s) tas-subartikolu (3) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (t) u (u) tiegħu u minnufih wara l-paragrafu (q) għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(r) tagħti pariri lill-Ministru dwar l-ippjanar u l-iżvilupp tal-industrija tal-komunikazzjoni kif ukoll dwar l-infrastruttura li ssostni l-industrija tal-komunikazzjoni;

(s) tippromovi u tmexxi 'il quddiem lil Malta bħala destinazzjoni għall-utenti ta' valur kummerċjali għoli fir-rigward tal-użu ta' servizzi ta' komunikazzjoni u ta' *information communications technologies*, biex dawn jistabbilixxu postijiet ta' negozju f'Malta"; u

(b) fis-subartikolu (13) tiegħu minflok il-kliem "l-ammont ta' ħdax-il elf u sitt mija u ħamsa u erbgħin euro (11,645) u, jew mitejn u tletin euro (230)" għandhom jidhlu l-kliem "l-ammont ta' tnax-il elf euro (€12,000) u, jew mitejn u ħamsin euro (€250)".

22. L-artikolu 5 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 5 tal-Att prinċipali.

"Tmexxija tal-affarijiet tal-Awtorità.

5. (1) L-affarijiet u x-xogħol tal-Awtorità għandhom ikunu jaqgħu fir-responsabbiltà tal-Awtorità nnifisha u dik ir-responsabbiltà għandha tiġi eżerċitata mill-President:

Iżda l-Bord jista' jiddelega jew jiddevolvi t-tmexxija eżekuttiva tiegħu kollha jew parti minnha, l-amministrazzjoni u l-organizzazzjoni tiegħu u l-kontroll amministrattiv tal-uffiċjali u l-impjegati tiegħu, lil kull uffiċjal jew uffiċjali tal-Awtorità, li jkollu wkoll dawk il-poteri l-oħra li jistgħu minn żmien għal żmien jiġu lilu delegati jew devoluti fuqu mill-Bord.

(2) L-Awtorità għandha teżerċita l-funzjonijiet tagħha permezz ta' dak l-uffiċjal jew dawk l-uffiċjali skont ma l-Bord jista' minn żmien għal żmien isemmi skond is-subartikolu (1).

(3) L-Awtorità tista' teżerċita xi waħda jew aktar mill-funzjonijiet tagħha sew direttament sew permezz ta' xi wiehed mill-uffiċjali jew impjegati tagħha jew permezz ta' xi aġenzija li tkun awtorizzata għal dak l-għan, jew permezz ta' kuntrattur jew persuna oħra li magħhom ikun sar ftehim għat-tweqqif ta' xi waħda jew aktar minn dawk il-funzjonijiet:

Iżda ebda haġa f'dan is-subartikolu m'għandha tawtorizza lill-Awtorità li tikkuntratta kif jew tiddelega xi haġa minn:

(i) il-funzjonijiet regolatorji tagħha; jew

(ii) il-funzjonijiet ta' awtorizzazzjoni tagħha, kemm-il darba dawk il-funzjonijiet ma jgħux espressament delegati lil xi awtorità pubblika mwaqqfa bil-liġi. L-Iskeda li tinsab ma' dan l-Att għandha ssemmi b'isimha lill-awtorità pubblika li jgħu delegati lilha dawk il-funzjonijiet ta' awtorizzazzjoni u t-tip ta' awtorizzazzjoni li dwarha dawk il-funzjonijiet ta' awtorizzazzjoni jgħu delegati. L-Awtorità tista' minn żmien għal żmien, wara li jkollha l-approvazzjoni bil-miktub tal-Ministru, b'ordni fil-Gazzetta temenda l-Iskeda:

Iżda wkoll il-Ministru, qabel ma jagħti l-approvazzjoni tiegħu, għandu, meta jkun adatt, jikkonsulta lil dak il-Ministru l-ieħor li jkun responsabbli għall-awtorità pubblika li jkunu ser jgħu delegati lilha dawk il-funzjonijiet ta' awtorizzazzjoni."

23. L-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 7 tal-Att prinċipali.

(a) is-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(2) Ir-rappreżentanza ġuridika tal-Awtorità għandha tvesti solidament fil-President u f'dak il-membru ieħor tal-Bord jew uffiċjal tal-Awtorità li l-Bord jista' jahtar:

Iżda l-Awtorità tista' tahtar lil xi wiehed jew aktar membri tal-Bord jew lil xi wiehed jew aktar uffiċjali tal-Awtorità biex dawn jidhru f'isem jew għall-Awtorità fi proċedimenti ġudizzjarji u fuq kull att, kuntratt, strument jew dokument ieħor li jkun."; u

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Kull dokument li jagħti x'jifhem li jkun strument magħmul jew mahruġ mill-Awtorità u ffirmat mill-President, jew minn xi membru ieħor tal-Bord jew uffiċjal tal-Awtorità li jista' jkun vestit mill-Bord, skont is-subartikolu (2), bir-rappreżentanza ġuridika tal-Awtorità,

ikun jista' jintlaqa' bhala prova u għandu, sakemm ma jgħix ippruvat il-kuntrarju, jitqies li jkun strument magħmul jew mahruġ mill-Awtorità".

Emenda tal-
artikolu 8 tal-
Att prinċipali.

24. L-artikolu 8 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(1) Il-laqgħat tal-Bord għandhom jissejġu mill-President daqstant spiss kemm ikun meħtieġ imma mill-inqas darba fix-xahar jew fuq inizjattiva tiegħu stess jew fuq it-talba ta' xi tnejn mill-membri l-oħra tal-Bord.";

(b) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem "jikkostitwixxu l-Awtorità", għandhom jidhlu l-kliem "jikkostitwixxu l-Bord"; u

(ii) minflok il-kliem "membri tal-Awtorità" għandhom jidhlu l-kliem "membri tal-Bord";

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "l-Awtorità tista' tirregola l-proċeduri tagħha nnifisha" għandhom jidhlu l-kliem "il-Bord jista' jirregola l-proċeduri tiegħu nnifisu";

(d) fis-subartikolu (4) tiegħu, minflok il-kliem "xi vakanza fost il-membri.", għandhom jidhlu l-kliem "xi vakanza fost il-membri tal-Bord."; u

(e) is-subartikolu (5) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem "membru tal-Awtorità" għandhom jidhlu l-kliem "membru tal-Bord"; u

(ii) minflok il-kliem "tad-dispożizzjonijiet tal-artikolu 3(8)." għandhom jidhlu l-kliem "id-dispożizzjonijiet tal-artikolu 3(9).".

Emenda tal-
artikolu 22 tal-
Att prinċipali.

25. Fis-subartikolu (3) tal-artikolu 22 tal-Att prinċipali minflok il-kliem "jew minn dak il-membru jew uffiċjal ieħor tal-Awtorità" għandhom jidhlu l-kliem "jew minn dak il-membru ieħor tal-Bord jew uffiċjal ieħor tal-Awtorità".

- 26.** It-Taqsima VI u l-artikolu 28 tal-Att prinċipali għandhom jiġu mhassra u t-Taqsimiet VII sa X tiegħu għandhom jiġu enumerati mill-ġdid bħala t-Taqsimiet VI sa IX.
- Thassir tat-Taqsima VI u l-enumerazzjoni mill-ġdid tat-Taqsimiet VII sa X tal-Att prinċipali.
- 27.** Fis-subartikolu (5) tal-artikolu 29 tal-Att prinċipali minflok il-kliem "teċċedi ħdax-il elf u sitt mija u ħamsa u erbgħin euro (11,645)" għandhom jidhlu l-kliem "aktar minn tnax-il elf euro (€12,000)".
- Emenda tal-artikolu 29 tal-Att prinċipali.
- 28.** L-artikolu 30 tal-Att prinċipali għandu jiġi emendat kif ġej:
- Emenda tal-artikolu 30 tal-Att prinċipali.
- (a) fis-subartikolu (1) tiegħu minflok il-kliem "tadmirijiet ta' membru, uffiċjal jew impjegat tal-Awtorità" għandhom jidhlu l-kliem "tadmirijiet ta' membru tal-Bord, jew ta' uffiċjal jew impjegat tal-Awtorità";
- (b) minnufih wara s-subartikolu (1) tiegħu għandu jizdied dan il-proviso li ġej:
- "Izda dik il-persuna għandha tibqa' marbuta bil-ħtiġiet ta' dan l-artikolu ukoll wara li jkunu ntemmu l-ħatra jew l-impjieg tagħha, tkun xi tkun id-deskrizzjoni tagħhom, mal-Awtorità."; u
- (ċ) fis-subartikolu (3) tiegħu minflok il-kliem "teċċedi elfejn u tliet mija u ħamsa u għoxrin euro (2,325)." għandhom jidhlu l-kliem "aktar minn għaxart elef euro (€10,000)".
- 29.** Fil-paragrafu (ċ) tas-subartikolu (1) tal-artikolu 31 tal-Att prinċipali minflok il-kliem "skont l-Att biex jirregola Komunikazzjonijiet Elettroniċi." għandhom jidhlu l-kliem "skond l-Att biex jirregola Komunikazzjonijiet Elettroniċi, u skont kull regolamenti magħmulin taħtu".
- Emenda tal-artikolu 31 tal-Att prinċipali.
- 30.** Fis-subartikolu (1) tal-artikolu 33 tal-Att prinċipali minflok il-kliem "teċċedi tliet mija u disgħa u erbgħin elf, erba' mija u sitt euro (€349,406) għal kull kontravvenzjoni jew nuqqas ta' konformità jew ħdax-il elf, sitt mija u sitta u erbgħin euro u sitta u tmenin ċenteżmu (€11,646.86)" għandhom jidhlu l-kliem "tkun iżjed minn tliet mija u ħamsin elf euro (€350,000) għal kull kontravvenzjoni jew nuqqas ta' konformità u, jew tnax-il elf euro (€12,000)".
- Emenda tal-artikolu 33 tal-Att prinċipali.
- 31.** Minnufih wara l-artikolu 40 tal-Att prinċipali għandu jizdied l-artikolu ġdid li ġej:
- Zjieda ta' artikolu ġdid 40A mal-Att prinċipali.

"Appelli pendenti għal deċiżjoni quddiem il-Bord tal-Appelli dwar it-Telekomunikazzjonijiet u, jew il-Bord tal-Appelli dwar il-Komunikazzjonijiet Kap. 490.

40A. Il-Ministru għall-gustizzja wara konsultazzjoni mal-Ministru jista' b'avviż fil-Ġazzetta, minkejja d-dispożizzjonijiet tal-artikolu 24 tal-Att dwar il-Ġustizzja Amministrattiva, jassenja lit-Tribunal ta' Reviżjoni Amministrattiva s-smiġh u deċiżjoni ta' kwalunkwe appell li seta' kien pendenti quddiem il-Bord tal-Appelli dwar it-Telekomunikazzjonijiet u, jew il-Bord tal-Appelli dwar il-Komunikazzjonijiet fl-ewwel ta' Ġunju 2012."

Emenda tal-artikolu 42 tal-Att prinċipali.

32. Is-subartikolu (2) tal-artikolu 42 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(2) It-Tribunal jew il-Qorti tal-Appell, skont il-każ, fejn iqisu li jkun hekk adatt, jistgħu, wara rikors ta' xi parti fl-appell, jissospendu għalkollox jew biss f'parti d-deċiżjoni li tkun fil-qofol tal-appell sakemm tingħata s-sentenza finali tal-appell. Meta t-Tribunal jew il-Qorti tal-Appell jkunu qegħdin jiddeċiedu jekk għandhomx jissospendu d-deċiżjoni jew le, dawn għandhom jagħtu r-raġunijiet tagħhom għaliex filwaqt li jqisu ċ-ċirkostanzi kollha rilevanti, inklużi -

(a) kemm il-kwistjoni tkun urġenti,

(b) l-effett fuq il-parti li tagħmel it-talba jekk ir-rikors għas-sospensjoni ma jintlaqax, u

(ċ) l-effett fuq il-kompetizzjoni u, jew fuq l-utenti finali jekk ir-rikors jintlaqa'.

Izda meta parti tkun qegħda tagħmel rikors taht dan l-artikolu din għandha tiddikjara x'ikunu r-raġunijiet fattwali u legali, li jkunu jistabbilixxu każ *prima facie* għas-sospensjoni tas-sentenza. It-Tribunal jew il-Qorti tal-Appell, skont il-każ, għandhom malli jirċievu xi rikors bħal dak jordnaw li dan għandu jiġi notifikat lill-parti jew lill-partijiet l-oħra fl-appell filwaqt li tingħatalhom opportunità raġonevoli li jipprezentaw ir-risposta tagħhom għalih:

Izda meta t-Tribunal ikun qiegħed jiddeċiedi dwar xi rikors bħal dak, dan jista' jinkludi dawk il-kondizzjonijiet li jqis li jkunu meħtieġa fiċ-ċirkostanzi."

Emenda tal-artikolu 44 tal-Att prinċipali.

33. Is-subartikolu (3) tal-artikolu 44 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(3) Meta l-Awtorità tkun qeghda tirisolvi xi tilwima li tiġi riferita lilha taht dan l-artikolu, hija tista' tohrog direttivi lill-persuna li kontriha jkun sar l-ilment, fejn titlob lil dik il-persuna tikkonforma ruħha ma' kull miżura li l-Awtorità tista' tispeçifika skont is-setgħat mogħtijin lilha bil-liġi għar-risolviment tat-tilwima:

Iżda meta f'tilwima pprezentata minn konsumatur, il-konsumatur ikun qieghed jitlob għall-ħlas ta' kumpens u, jew għal xi rimedju ċivili ieħor u l-ammont involut ma jkunx jaqbeż il-ġurisdizzjoni tat-Tribunal għal Talbiet ta' Konsumaturi, l-Awtorità tista' tirreferi dik it-tilwima biex tinqata' mit-Tribunal għal Talbiet ta' Konsumaturi."

34. L-artikolu 45 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 45 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "membri tal-Awtorità" għandhom jidhlu l-kliem "membri tal-Bord"; u

(b) is-subartikolu (2) tiegħu għandu jiġi mħassar u s-subartikolu (1) għandu jiġi enumerat mill-ġdid bħala l-artikolu 45.

35. Fl-artikolu 47 tal-Att prinċipali minflok il-kliem "Il-membri, uffiċjali u impjegati tal-Awtorità" għandhom jidhlu l-kliem "Il-Membri tal-Bord, l-uffiċjali u l-impjegati tal-Awtorità".

Emenda tal-artikolu 47 tal-Att prinċipali.

36. Fis-subartikolu (1) tal-artikolu 49 tal-Att prinċipali l-kliem ", id-Direttur Ġenerali" għandhom jiġu mħassra.

Emenda tal-artikolu 49 tal-Att prinċipali.

37. Minnufih wara l-artikolu 49 tal-Att prinċipali għandu jizdied dan l-artikolu ġdid li ġej:

Zjieda tal-artikolu 50 ġdid ma-Att prinċipali.

"Isem l-Awtorità m'għandu jintuża f'ebda riklam.

50. (1) Intrapriża m'għandhiex, mingħajr il-kunsens mogħti bil-miktub minn qabel mill-Awtorità, tagħmel jew iġġiegħel li jsir xi ilment b'mod li jidher jew bil-fomm, li jkun sew jispeçifika sew jimplika, li:

(a) xi oġġetti jew servizzi provduti minn xi intrapriża jkollhom l-approvazzjoni tal-Awtorità; jew

(b) xi attività li tkun saret minn xi intrapriża jkollha l-approvazzjoni, jew tkun qeghda ssir bil-koperazzjoni jew l-għajjnuna tal-Awtorità.

(2) Meta l-isem, isem kummerċjali, *trademark* jew it-tismija ta' xi oġġetti jew servizzi provduti jew fornuti minn xi intrapriża jkunu jidhru fil-kuntest ta' xi ilment imsemmi fis-subartikolu (1), dik l-intrapriża għandha titqies għall-finijiet ta' dan l-artikolu li tkun giegħlet li jsir l-ilment sakemm ma ggibx prova li l-ilment sar mingħajr ma kienet taf jew bil-komplicità tagħha.

(3) Intrapriża li tinsab hatja taht dan l-artikolu tehel multa ta' mhux inqas minn hames mitt euro (€500) u mhux iżjed minn hamest elef euro (€5000).".

Sostituzzjoni tal-Iskeda li tinsab mal-Att prinċipali.

38. L-Iskeda li tinsab mal-Att prinċipali għandha tiġi sostitwita b'din li ġejja:

"SKEDA

(Artikolu 5(3))

Skont id-dispożizzjonijiet tal-paragrafu (ii) tal-proviso għall-artikolu 5(3) din l-awtorità pubblika li ġejja issemmiet biex toħroġ dan it-tip ta' awtorizzazzjoni:

Isem l-awtorità pubblika	Tip ta' awtorizzazzjoni

".

TAQSIMA III

Emenda tal-Att biex jirregola Komunikazzjonijiet Elettroniċi

Emenda tal-Att biex jirregola Komunikazzjonijiet Elettroniċi. Kap. 399.

39. Din it-Taqsima temenda l-Att biex jirregola Komunikazzjonijiet Elettroniċi, u għandha tinqara u tiftiehem haġa waħda mal-Att biex jirregola Komunikazzjonijiet Elettroniċi, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 1 tal-Att prinċipali.

40. Fl-artikolu 1 tal-Att prinċipali minflok il-kliem "l-Att biex jirregola Komunikazzjoni Elettroniċi" għandhom jidhru l-kliem "l-Att biex jirregola Komunikazzjonijiet Elettroniċi".

Emenda tal-artikolu 4 tal-Att prinċipali.

41. Fis-subartikolu (1) tal-artikolu 4 tal-Att prinċipali minflok il-kliem "L-objettivi tal-Awtorità fl-eżerċizzju tal-funzjonijiet tagħha taht dan l-Att jinkludu:" għandhom jidhru l-kliem "L-objettivi tal-Awtorità, daqstant kemm tagħti setgħa l-liġi, fl-eżerċizzju tal-funzjonijiet tagħha taht dan l-Att għandhom jinkludu:".

42. Fis-subartikolu (2) tal-artikolu 5 tal-Att prinċipali minflok il-kliem "għall-kontenut ta' messagġi trasmessi" għandhom jidhlu l-kliem "għall-kontenut ta' kull komunikazzjoni, tkun kif tkun deskritta, trasmessa".

Emenda tal-artikolu 5 tal-Att prinċipali.

43. Minnufih wara s-subartikolu (5) tal-artikolu 27 tal-Att prinċipali għandu jżied dan is-subartikolu ġdid li ġej:

Emenda tal-artikolu 27 tal-Att prinċipali.

Kap. 418. "(6) Ebda haġa f'dan l-artikolu m'għandha tiftiehem li tkun qegħda tipprojbixxi lill-Awtorità milli tiddelega xi parti mill-funzjonijiet tagħha ta' awtorizzazzjoni taht din it-Taqsima lil xi awtorità pubblika oħra mwaqqfa bil-liġi skont id-disposizzjonijiet tal-artikolu 5 tal-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni."

44. Is-subartikolu (4) tal-artikolu 38 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 38 tal-Att prinċipali.

"(4) Meta jiġu konċessi drittijiet għall-użu ta' frekwenzi tar-radju u f'kwalunkwe każ mill-inqas darba fis-sena, l-Awtorità għandha tippubblika l-assenjazzjoni ta' dawk id-drittijiet safejn dawn ikollhom x'jaqsmu mal-provvediment ta' servizzi ta' komunikazzjoni elettronici."

45. Fil-verżjoni bl-Ingliż tas-subartikolu (2) tal-artikolu 51 tal-Att prinċipali, minflok il-kliem "shall lie to the prosecution" għandhom jidhlu l-kliem "shall lie with the prosecution".

Emenda tal-artikolu 51 tal-Att prinċipali.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 134 tas-26 ta' Marzu, 2014.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE ABELA
President

4th April, 2014

ACT No. VIII of 2014

AN ACT to amend various laws relating to communications and to make provision with respect to matters ancillary thereto or connected therewith.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and commencement.

1. (1) The short title of this Act is the Communications Laws (Amendment) Act, 2014.

(2) This Act shall come into force on such date as the Minister responsible for communications may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of this Act.

PART I

Amendment of the Postal Services Act

Amendment of the Postal Services Act. Cap. 254.

2. This Part amends the Postal Services Act, and it shall be read and construed as one with the Postal Services Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 2 of the principal Act.

3. Article 2 of the principal Act shall be amended as follows:

(a) in the definition "parcel", for the word "item" there shall be substituted the word "article";

(b) in the definition "postal operator", for the words "any person licensed" there shall be substituted the words "any person authorized";

(c) the definition "reserved services" shall be deleted;

(d) immediately after the definition "Tribunal" there shall be added the following new definition:

" "universal service" shall have the meaning given to it in accordance with article 17;"; and

(e) for the definition "universal service provider" there shall be substituted the following:

" "universal service provider" means the postal operator providing the universal postal service or parts thereof within Malta as may be designated by the Authority by notice in the Gazette;".

4. Article 8 of the principal Act shall be substituted by the following:

Substitution of article 8 of the principal Act.

"Individual licences and general authorisations.

8. (1) An authorization to operate or provide postal services shall:

(a) in respect of services within the scope of the universal service in order to guarantee compliance with the essential requirements and to ensure the provision of the universal service, be by an individual licence granted by the Authority in accordance with this Act; or

(b) in respect of services outside the scope of the universal services in order to guarantee compliance with the essential requirements, be by a general authorization notified to the Authority in accordance with this Act:

Provided that a postal operator authorized to provide postal services in accordance with this Act shall only provide such postal services in accordance with the authorization that it enjoys.

(2) The procedures stipulated for the issue and, or granting of any authorization under this Act shall be transparent, accessible, non-discriminatory, precise and unambiguous and shall be made public in advance and based on objective criteria."

Deletion of articles 9, 9A, 10 and 13 of the principal Act.

5. Articles 9, 9A, 10 and 13 of the principal Act shall be deleted.

Substitution of article 17 of the principal Act.

6. Article 17 of the principal Act shall be substituted by the following:

"Universal service.

17. (1) Users at all points in Malta shall enjoy the rights to a universal service involving the permanent provision of a postal service of a quality as may be prescribed by the Authority, at affordable prices for all users.

(2) The "universal service" in the context of the provision of postal services for the purposes of this Act means:

(a) that on every working day and not less than five days a week, save in circumstances deemed exceptional by the Authority, there is at least:

(i) one clearance, and

(ii) one delivery to the home or premises of every person in Malta or, as the Authority considers appropriate, under such conditions as it may determine from time to time, to appropriate installations; and

(b) that the following services are provided:

(i) the clearance, sorting, transport and distribution of postal articles up to two kilograms in weight;

(ii) the clearance, sorting, transport and distribution of postal parcels up to twenty kilograms in weight;

(iii) services for registered articles;

(iv) services for insured articles within Malta and to and from all countries which, as signatories to the Universal Postal Convention of the Universal Postal Union, declare their willingness to admit such items whether reciprocally or in one direction only;

(v) services, free of charge, for the blind or partially sighted persons as may be determined by the Authority; and

(vi) a basic counter service throughout Malta.

(3) The universal service as defined in this article covers both inland and cross-border services.

(4) For the purposes of the provision of a universal service, the minimum and maximum dimensions for postal articles shall be those laid in the relevant provisions adopted by the Universal Postal Union, as amended from time to time."

7. Immediately after article 17 of the principal Act, there shall be added the following new articles 17A and 17B:

Addition of new articles 17A and 17B to the principal Act.

"Designation of universal postal service providers.

17A. (1) The Authority may by notice in the Gazette designate one or more postal operators to provide different elements of the universal service and, or cover different parts of the national territory, and in so doing the Authority shall also determine the rights and obligations applicable to the postal operator concerned:

Provided that the Authority may, by notice in the Gazette, withdraw, amend or suspend any designation made under this sub-article, provided that prior to the effective date of any such withdrawal, amendment or suspension, the Authority may, where applicable, designate another postal operator in respect of the service affected by any such withdrawal, amendment or suspension.

(2) The Authority may ensure the provision of universal services by procuring such services in accordance with the applicable public procurement rules and regulations, by competitive dialogue or negotiated procedures with or without publication of a contract notice.

(3) A universal service provider shall meet the following requirements with respect to provision of the universal service:

(a) guarantee compliance with the essential requirements;

(b) ensure that an identical service is offered to users under comparable conditions;

(c) ensure that the service is made available without any form of discrimination whatsoever whether arising from political, religious, racial, gender or ideological considerations;

(d) ensure that the service is not interrupted or stopped except in cases of *force majeure*; and

(e) ensure that the service evolves in response to the technical, economic and social environment and to the needs of users.

Postal services within the scope of the universal service.

17B. (1) A postal service is within the scope of the universal service if:

(a) the service is within the description of the universal service, or

(b) the service would be within the description of the universal service but for the fact that -

(i) in the case of a service consisting of the clearance and delivery of postal articles, the clearance or delivery is not made on every working day as required in article 17(2)(a), or

(ii) the service is not provided throughout Malta, or

(iii) the service is not provided at an affordable price in accordance with a uniform tariff applicable throughout Malta pursuant to article 21, or

(c) the Authority determines that the postal service is of a kind that, having regard to postal service users, could reasonably be said to be interchangeable with a service of a description set out in article 17.

(2) In this article any reference to a service includes a part of that service."

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| 8. Articles 18 and 20 of the principal Act shall be deleted. | Deletion of articles 18 and 20 of the principal Act. |
| 9. Article 21 of the principal Act shall be amended as follows: | Amendment of article 21 of the principal Act. |
| (a) in paragraph (f) thereof, for the words "under similar conditions;" there shall be substituted the words "under similar conditions.", and | |
| (b) paragraph (g) thereof shall be deleted. | |
| 10. In article 23 of the principal Act, for the words "amend the First Schedule", there shall be substituted the words "amend the Schedule". | Amendment of article 23 of the principal Act. |
| 11. In the proviso to sub-article (1) of article 66 of the principal Act, for the word "items" there shall be substituted the word "articles". | Amendment of article 66 of the principal Act. |
| 12. Article 75 of the principal Act shall be deleted. | Deletion of article 75 of the principal Act. |

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Amendment of article 77A of the principal Act.

13. In paragraph (e) of article 77A of the principal Act, for the words "to him" there shall be substituted the words "to it".

Amendment of article 80 of the principal Act.

14. Subarticle (2) of article 80 of the principal Act shall be substituted by the following:

"(2) Any modifications, adaptations and limitations to any individual licence shall be made by the Authority in accordance with the provisions of this Act."

Amendment of article 81 of the principal Act.

15. Subarticle (2) of article 81 of the principal Act shall be amended as follows:

(a) paragraph (h) thereof shall be deleted, and

(b) paragraphs (g) to (u) thereof shall be renumbered as paragraphs (h) to (t).

Amendment of the First Schedule to the principal Act.

16. The First Schedule to the principal Act shall be amended as follows:

(a) sub-paragraph (a) of paragraph 1 thereof shall be deleted and sub-paragraph (b) shall be renumbered as the whole paragraph 1 thereof;

(b) paragraph 2 thereof shall be amended as follows:

(i) for the words "allocate costs to each of the reserved and to the non-reserved services respectively in the following manner:", there shall be substituted the words "allocate costs in the following manner:"; and

(ii) sub-paragraph (b)(iii) thereof shall be substituted by the following:

"(iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the universal services and on the other hand, to the other services;" and

(c) the First Schedule shall be renamed as "the Schedule".

17. The Second Schedule to the principal Act shall be deleted.

Deletion of the Second Schedule to the principal Act.

PART II

Amendment of the Malta Communications Authority Act

18. This Part amends the Malta Communications Authority Act, and it shall be read and construed as one with the Malta Communications Authority Act, hereinafter referred to in this Part as "the principal Act".

Amendment of the Malta Communications Authority Act. Cap. 418.

19. Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) the definition " "advisory committee" or "committee" " shall be deleted;

(b) immediately after the definition "BEREC" there shall be added the following new definition:

" "Board" means the Board of the Authority composed of the Chairman and members appointed in accordance with article 3;"

(c) the definition "Chairman" shall be substituted by the following:

" "Chairman" means the Chairman of the Authority and includes, in the circumstances mentioned in article 3(3), the Deputy Chairman or other person appointed to act as Chairman;"

(d) in the definition "contractor" for the words "in accordance with article 5(5):" there shall be substituted the words "in accordance with article 5(3):"; and

(e) the definitions "Director General" and "Directorates" shall be deleted.

20. Article 3 of the principal Act shall be amended as follows:

Amendment of article 3 of the principal Act.

(a) sub-article (1) thereof shall be substituted by the following:

"(1) There shall be a body, to be known as the Malta Communications Authority, the affairs and business of which shall be carried out by a board composed of a Chairman and not less than four and not more than six other members, in accordance with the provisions of article 5.";

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(b) in sub-article (2) thereof, for the words "members of the Authority", there shall be substituted the words "members of the Board";

(c) in sub-article (3) thereof, for the words "members of the Authority", there shall be substituted the words "members of the Board";

(d) sub-article (4) thereof shall be amended as follows:

(i) for the words "member of the Authority", there shall be substituted the words "member of the Board";

(ii) in paragraph (c) thereof, for the words "member of the Authority", there shall be substituted the words "member of the Board"; and

(iii) the proviso to paragraph (c) thereof shall be substituted by the following:

"Provided that the Minister may waive the disqualification of a person under this paragraph if such person declares the interest and the Minister considers that there are valid reasons for such a waiver:

Provided further that if the Minister decides to grant such waiver, the declaration of the person stating his interest, the waiver and reasons therefor shall be published in the Gazette.";

(e) sub-article (5) thereof shall be amended as follows:

(i) for the words "member of the Authority", there shall be substituted the words "member of the Board"; and

(ii) in paragraph (b) thereof, for the words "member of the Authority", there shall be substituted the words "member of the Board";

(f) sub-article (6) thereof shall be substituted by the following:

"(6) A member of the Board may only be removed from office by the Minister for any one or more of the following reasons:

(a) if the member due to infirmity of mind or of body or of any other cause is effectively unable to continue to discharge his duties as a member;

(b) if the behaviour or performance of the member brings into question his suitability or ability to continue as a member, in particular for behaviour that affects or may affect his reputation, independence or autonomy, or the reputation, independence or autonomy of the Authority;

(c) if the member has been convicted of a criminal offence affecting public trust, or of theft or fraud, or of knowingly receiving property obtained by theft or fraud or of bribery or of money laundering, provided that the Minister may suspend the member if he is being investigated for a criminal offence; or

(d) if the member fails to perform his duties for a prolonged period without any valid justification:

Provided that notwithstanding the above, it shall be a cause for the removal of a member if that member for any reason fails to perform his duties, including attending for Board meetings, for a continuous period exceeding six months.";

(g) sub-articles (7) and (8) thereof shall be renumbered as sub-articles (8) and (9);

(h) immediately after sub-article (6) thereof there shall be added the following new sub-article:

"(7) If the Minister removes a member of the Board from office, such removal shall be made public by no later than the effective date of removal from office. At the same time, the Minister shall provide the member concerned with a statement of reasons for his removal, and the member shall have the right to request that the statement of reasons for his removal be made public, in which case the Minister shall publish such statement.";

(i) in sub-article (8) thereof, as re-numbered, for the words "member of the Authority", wherever they occur, there shall be substituted the words "member of the Board"; and

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(j) sub-article (9) thereof, as renumbered, shall be amended as follows:

(i) for the words "member of the Authority" there shall be substituted the words "member of the Board";

(ii) for the words "at the first meeting of the Authority" there shall be substituted the words "at the first meeting of the Board"; and

(iii) for the words "recorded in the minutes of the Authority" there shall be substituted the words "recorded in the minutes of the Board".

Amendment of article 4 of the principal Act.

21. Article 4 of the principal Act shall be amended as follows:

(a) paragraphs (r) and (s) of sub-article (3) thereof shall be renumbered as paragraphs (t) and (u) and immediately after paragraph (q) there shall be inserted the following new paragraphs:

"(r) advise the Minister on the planning and development of the communications industry as well as on the infrastructure supporting the communications industry;

(s) promote and advance Malta as a destination for high value commercial users of communications services and of information communications technologies to establish places of business in Malta;"; and

(b) in sub-article (13) thereof for the words "not exceeding eleven thousand and six hundred and forty-five euro (11,645) and two hundred and thirty euro (230)", there shall be substituted the words "not exceeding twelve thousand euro (€12,000) and, or two hundred and fifty euro (€250)".

Substitution of article 5 of the principal Act.

22. Article 5 of the principal Act shall be substituted by the following:

"Conduct of the affairs of the Authority.

5. (1) The affairs and business of the Authority shall be the responsibility of the Board which responsibility shall be exercised through the Chairman:

Provided that the Board may delegate or devolve all or part of the executive conduct of the Authority, its administration and organization and the administrative control of its officers and employees, to any officer or officers of the Authority, who shall also have such other powers as may from time to time be delegated or devolved to him or to them by the Board.

(2) The Authority shall exercise its functions through such officer or officers as the Board may from time to time designate in accordance with sub-article (1).

(3) The Authority may exercise any one or more of its functions either directly or through any of its officers or employees or through an agency authorized for that purpose, or through a contractor or other person with whom an agreement for the performance of any one or more of such functions has been entered into:

Provided that nothing in this sub-article shall authorize the Authority to contract out or delegate any of:

- (i) its regulatory functions; or
- (ii) its authorization functions, unless such functions are expressly delegated to a public authority established by law. The Schedule to this Act shall state by name the public authority to whom such authorization functions are delegated and the type of authorization in relation to which such authorization functions are delegated. The Authority may, from time to time, after approval in writing by the Minister, by order in the Gazette amend the Schedule:

Provided further that the Minister before giving his approval shall, where appropriate, consult with such other Minister as may be responsible for the public authority to whom such authorization functions are to be delegated."

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Amendment of
article 7 of the
principal Act.

23. Article 7 of the principal Act shall be amended as follows:

(a) sub-article (2) thereof shall be substituted by the following:

"(2) The legal representation of the Authority shall jointly vest in the Chairman and such other member of the Board or officer of the Authority as the Board may appoint:

Provided that the Authority may appoint one or more members of the Board or one or more officers of the Authority to appear in the name or on behalf of the Authority in any judicial proceedings and in any act, contract, instrument or other document whatsoever."; and

(b) sub-article (3) thereof shall be substituted by the following:

"(3) Any document purporting to be an instrument made or issued by the Authority and signed by the Chairman, or such other member of the Board or officer of the Authority as may be determined by the Board, in accordance with sub-article (2), be vested with the legal representation of the Authority, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Authority."

Amendment of
article 8 of the
principal Act.

24. Article 8 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following:

"(1) The meetings of the Board shall be called by the Chairman as often as may be necessary but at least once a month either on his own initiative or at the request of any two of the other members of the Board.";

(b) sub-article (2) thereof shall be amended as follows:

(i) for the words "constituting the Authority", there shall be substituted the words "constituting the Board"; and

(ii) for the words "members of the Authority" there shall be substituted the words "members of the Board";

(c) in sub-article (3) thereof, for the words "the Authority" there shall be substituted the words "the Board";

(d) in sub-article (4) thereof, for the words "any vacancy among the members.", there shall be substituted the words "any vacancy among the members of the Board."; and

(e) sub-article (5) thereof shall be amended as follows:

(i) for the words "member of the Authority" there shall be substituted the words "member of the Board"; and

(ii) for the words "the provisions of article 3(8)." there shall be substituted the words "the provisions of article 3(9).".

25. In sub-article (3) of article 22 of the principal Act, for the words "or such other member or officer of the Authority" there shall be substituted the words "or such other member of the Board or officer of the Authority".

Amendment of article 22 of the principal Act.

26. Part VI and article 28 of the principal Act shall be deleted and Parts VII to X thereof shall be renumbered as Parts VI to IX.

Deletion of Part VI and renumbering of Parts VII to X of the principal Act.

27. In sub-article (5) of article 29 of the principal Act, for the words "not exceeding eleven thousand and six hundred and forty-five euro (11,645)" there shall be substituted the words "not exceeding twelve thousand euro (€12,000)".

Amendment of article 29 of the principal Act.

28. Article 30 of the principal Act shall be amended as follows:

Amendment of article 30 of the principal Act.

(a) in sub-article (1) thereof, for the words "the duties of a member, officer or employee of the Authority" there shall be substituted the words "the duties of a member of the Board, or of an officer or employee of the Authority";

(b) immediately after sub-article (1) thereof there shall be added the following proviso:

"Provided that any such person shall remain bound by the requirements of this article even after his appointment or employment, howsoever described, with the Authority has come to an end."; and

(c) in sub-article (3) thereof, for the words "not

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exceeding two thousand and three hundred and twenty-five euro (2,325)." there shall be substituted the words "not exceeding ten thousand euro (€10,000)."

Amendment of article 31 of the principal Act.

29. In paragraph (c) of sub-article (1) of article 31 of the principal Act, for the words "in accordance with the Electronic Communications (Regulation) Act." there shall be substituted the words "in accordance with the Electronic Communications (Regulation) Act and with any regulations made thereunder."

Amendment of article 33 of the principal Act.

30. In sub-article (1) of article 33 of the principal Act, for the words "exceed three hundred and forty-nine thousand, four hundred and six euro (€349,406) for each infringement or failure to comply and, or eleven thousand, six hundred and forty-six euro and eighty-six cents (€11,646.86)" there shall be substituted the words "exceed three hundred and fifty thousand euro (€350,000) for each infringement or failure to comply and, or twelve thousand euro (€12,000)".

Addition of new article 40A to the principal Act.

31. After article 40 of the principal Act there shall be inserted the following new article:

"Appeals pending for decision before the Telecommunications Appeals Board and, or the Communications Appeals Board .

Cap. 490.

40A. The Minister for justice, after consultation with the Minister, may by notice in the Gazette, notwithstanding the provisions of article 24 of the Administrative Justice Act, assign to the Administrative Review Tribunal, the hearing and determination of any appeals that may have been pending before the Telecommunications Appeals Board and, or the Communications Appeals Board as on the 1st June 2012."

Amendment of article 42 of the principal Act.

32. Subarticle (2) of article 42 of the principal Act shall be substituted by the following:

"(2) The Tribunal or the Court of Appeal, as the case may be, where it considers it to be appropriate, may, on the application of a party to the appeal, suspend in whole or in part the decision which is the subject of the appeal pending the final determination of the appeal. The Tribunal or the Court of Appeal in deciding whether or not to suspend the decision shall state its reasons and shall take into account all the relevant circumstances, including -

(a) the urgency of the matter,

(b) the effect on the party making the request if the application for suspension is not upheld, and

(c) the effect on competition and, or on end-users if the application is upheld:

Provided that a party, in making an application under this article, shall state the factual and legal grounds establishing a *prima facie* case for the suspension of the decision. The Tribunal or the Court of Appeal, as the case may be, shall on receipt of any such application order the notification thereof to the other party or parties to the appeal affording them reasonable opportunity to make their response thereto:

Provided further that the Tribunal in determining any such application may include such conditions as it considers necessary in the circumstances."

33. Subarticle (3) of article 44 of the principal Act shall be substituted by the following: Amendment of article 44 of the principal Act.

"(3) The Authority, in resolving any disputes referred to it under this article, may issue directives to the person against whom the complaint has been lodged, requiring that person to comply with any measure that the Authority may specify in accordance with its powers at law for the resolution of the dispute:

Provided that where, in a dispute lodged by a consumer, the consumer is requesting the payment of compensation and, or other civil redress and the amount involved does not exceed the jurisdiction of the Consumer Claims Tribunal, the Authority may refer such dispute for determination by the Consumer Claims Tribunal."

34. Article 45 of the principal Act shall be amended as follows: Amendment of article 45 of the principal Act.

(a) in sub-article (1) thereof, for the words "members of the Authority" there shall be substituted the words "members of the Board"; and

(b) sub-article (2) thereof shall be deleted, and sub-article (1) shall be renumbered as article 45.

35. In article 47 of the principal Act, for the words "The members, officers and employees of the Authority" there shall be substituted the words "The members of the Board, officers and employees of the Authority". Amendment of article 47 of the principal Act.

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Amendment of article 49 of the principal Act.

36. In sub-article (1) of article 49 of the principal Act, the words ", Director General" shall be deleted.

Addition of new article 50 to the principal Act.

37. Immediately after article 49 of the principal Act there shall be added the following new article:

"Name of the Authority not to be used in any advertisement.

50. (1) An undertaking shall not, without the written prior consent of the Authority, make or cause to be made any representation in any visual or aural form, either specifically or by implication, to the effect that:

(a) any goods or services supplied by any undertaking have the approval of the Authority; or

(b) any activity carried out by any undertaking has the approval, or is conducted with the co-operation or assistance of the Authority.

(2) Where the name, tradename, trademark or the designation of any goods or service provided or supplied by an undertaking appears in relation to a representation referred to in sub-article (1), that undertaking shall be deemed for the purposes of this article to have caused the representation to be made unless it proves that the representation was made without its knowledge or connivance.

(3) An undertaking convicted under this article shall be liable to a fine (*multa*) of not less than five hundred euro (€500) and not more than five thousand euro (€5000).".

Substitution of the Schedule to the principal Act.

38. The Schedule to the principal Act shall be substituted by the following:

"SCHEDULE
(Article 5(3))

In accordance with the provisions of paragraph (ii) of the proviso to article 5(3), the following public authority has been delegated to issue the following type of authorization:

Name of public authority	Type of authorization

".

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Passed by the House of Representatives at Sitting No. 134 of the
26th March, 2014.

ANĠLU FARRUGIA

Speaker

RAYMOND SCICLUNA

Clerk to the House of Representatives
