GIBRALTAR REGULATORY AUTHORITY

ANNUAL REPORT 2020/2021

GRA

GIBRALTAR REGULATORY AUTHORITY

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Table of Contents

CHIEF EXECUTIVE OFFICER'S STATEMENT 5

ELECTRONIC COMMUNICATIONS 9
Introduction 10
International Participation 10
Regulatory Matters 13

RADIO COMMUNICATIONS 21
Introduction 22
International Coordination and Participation 22
Regulatory Matters 23

INFORMATION RIGHTS 27
Introduction 28
International Participation 28
Regulatory Matters 31

BROADCASTING 43
Introduction 44
International Participation 44
Regulatory Matters 45

POSTAL SERVICES 47
Introduction 48
Regulatory Matters 48

HIGHER EDUCATION REGULATION 55
Introduction 56
Regulatory Matters 56

CYBER SECURITY COMPLIANCE 59
Introduction 60
International Participation 60
Regulatory Matters 60

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 2020 to 31st March 2021.

Gibraltar Regulatory Authority Act 2000

In accordance with section 3 of the Act, the GRA Board consists of the GRA's Chief Executive Officer and the Deputy Chief Executive Officer, and three appointed members, namely Mr Anthony Provasoli, Mr Kieran Power and Mr Francis Lopez. The Chief Executive Officer is the Chairman of the GRA.

Organisation and Staffing

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

COVID-19

The COVID-19 pandemic affected the way the GRA operated throughout the year 2020/2021. With lockdown restrictions imposed both locally and abroad, hosting live workshops, travelling abroad for conferences, and holding face-to-face meetings, were not possible. Nevertheless, the GRA managed to adapt, and the Divisions have addressed how they each dealt with the disruption of COVID-19 under their respective sections.

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 they meet the regulatory and legal standards while continuously assessing the levels of competition in the electronic communications market.

During this reporting period, the electronic communications sector found itself at the centre of a world-wide pandemic which had a tremendous global impact on the public and businesses alike. With many people working from home due to the lockdown restrictions, the demand for communications services during non-peak periods increased with little warning.

The rise in demand for communications services posed challenges of an unprecedented nature. The Division could do little to relieve these difficulties, however, they reached out to local providers and gave them an opportunity to raise any concerns or issues they encountered throughout this period.

Despite the disruption, the local telecommunications market continues to grow. End-users are enjoying a large range of electronic communications services from several providers and at a variety of price points which range from high value, multi-service bundles, to premium ultra-high-speed offerings. 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.

In December 2020, Her Majesty's Government of Gibraltar (the "Government") implemented a new legislative package which included amendments to the Communications Act 2006 and its subsidiary legislation. The Division is currently familiarising itself with the changes and will consult with the communications industry as required.

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 meetings and forums and ensures 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 site inspections of sites known to emit radio waves, with a view

of ensuring they operate within recognised safe guidelines. The Division is also responsible for the management and allocation of frequencies, which extends to those used by mobile operators for the provision of mobile voice and data services.

Due to difficulties posed by the pandemic, the scheduled Satellite Coordination Meeting did not take place this year, however, a virtual meeting was held between the Division, Ofcom and SES-G in June 2020 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.

Information Rights

The Information Rights Division regulates data protection and will regulate freedom of information when the relevant legislation is commenced.

The Data Protection Act 2004 and the Gibraltar General Data Protection Regulation ("Gibraltar GDPR"), which came into force on 1st January 2021, provide a comprehensive and modern framework for data protection in Gibraltar. 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.

Following the end of the Brexit transition period on 1st January 2021, the European Union General Data Protection Regulation 2016/679 ("the EU GDPR") ceased to apply in Gibraltar. Gibraltar's exit from the EU means the jurisdiction is now 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 2020/2021 period has been an important year for the Division, in particular, because of the work undertaken as a result of the UK's exit from the EU. Due to the changes in the law, the Division invested a significant amount of its resources in responding to incoming enquiries, raising public awareness, and providing guidance to help organisations ensure compliance with the Gibraltar and EU GDPR.

In response to the change in regime, the Division published Brexit-related guidance and held dedicated Brexit-related workshops in the second half of 2020. The information and guidance notes were published on the GRA's website and social media platforms.

In addition, the Division introduced the use of short videos in its communications and engagement strategy. The use of video is expected to help attract greater attention to the guidance published by the Division. As in previous years, the Division has continued to respond to public concerns and has enhanced its awareness-raising initiatives to provide the support and guidance required by organisations and individuals alike. Amongst other things, workshops for Data Protection Officers, quarterly e-newsletters, public awareness events and the ongoing "Control Your Privacy" campaign, which aims to raise awareness of the risks to privacy from digital technology and promote its responsible use, have continued.

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 and enforce licences to broadcasters, regulate matters on broadcasting standards, issue Codes of Practice and encourage the promotion of media literacy.

The Division does not only license and regulate Gibraltar-based broadcasters, but also provides guidance to consumers and other users of the broadcasting services in Gibraltar.

The Division continued to deliver its Media Literacy Awareness Campaign despite the disruption caused by the COVID-19 pandemic, which put the campaign on hold temporarily. The latter part of 2020 saw the resumption of the campaign where the event was held virtually for all students aged 14-15.

Despite the difficulties associated with video conferencing, the campaign was successful, and the feedback received was extremely positive.

Postal Services

The Postal Services Division of the GRA has responsibility for regulating the postal services sector in Gibraltar in accordance with the Post Office Act 1961 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 Division also issues guidance and recommendations to all postal service providers to ensure compliance with the requirements of the act, whilst simultaneously ensuring the rights of users are upheld.

The COVID-19 pandemic produced an unprecedented crisis that caused a dramatic economic impact in the postal services industry. Nevertheless, it provided an opportunity for the postal services industry to innovate and develop new ideas, strategies, and business plans. 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.

Higher Education Regulation

The Higher Education Regulation Division was setup to enable the GRA to comply with Part 11 of 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 to be known as the Gibraltar Authority for Standards in Higher Education and to also designate a regulatory authority to be known as the Gibraltar Higher Education Commission.

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

During this reporting year, the University Advisory Board, that provides advice and support to the CEO of the GRA in respect to his responsibilities, met twice, virtually, together with senior representatives from the University. A further meeting is scheduled to take place later in 2021.

Cyber Security Compliance

In 2018, the Civil Contingencies Act 2007 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, to build cooperation and promote a culture of risk management and incident reporting among Member States.

The Cyber Security Compliance Division was setup to enable the GRA to comply with its responsibilities under the amended Civil Contingencies Act 2007. Under part 7 of the act, the GRA was designated as 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 act as the single point of contact for Gibraltar.

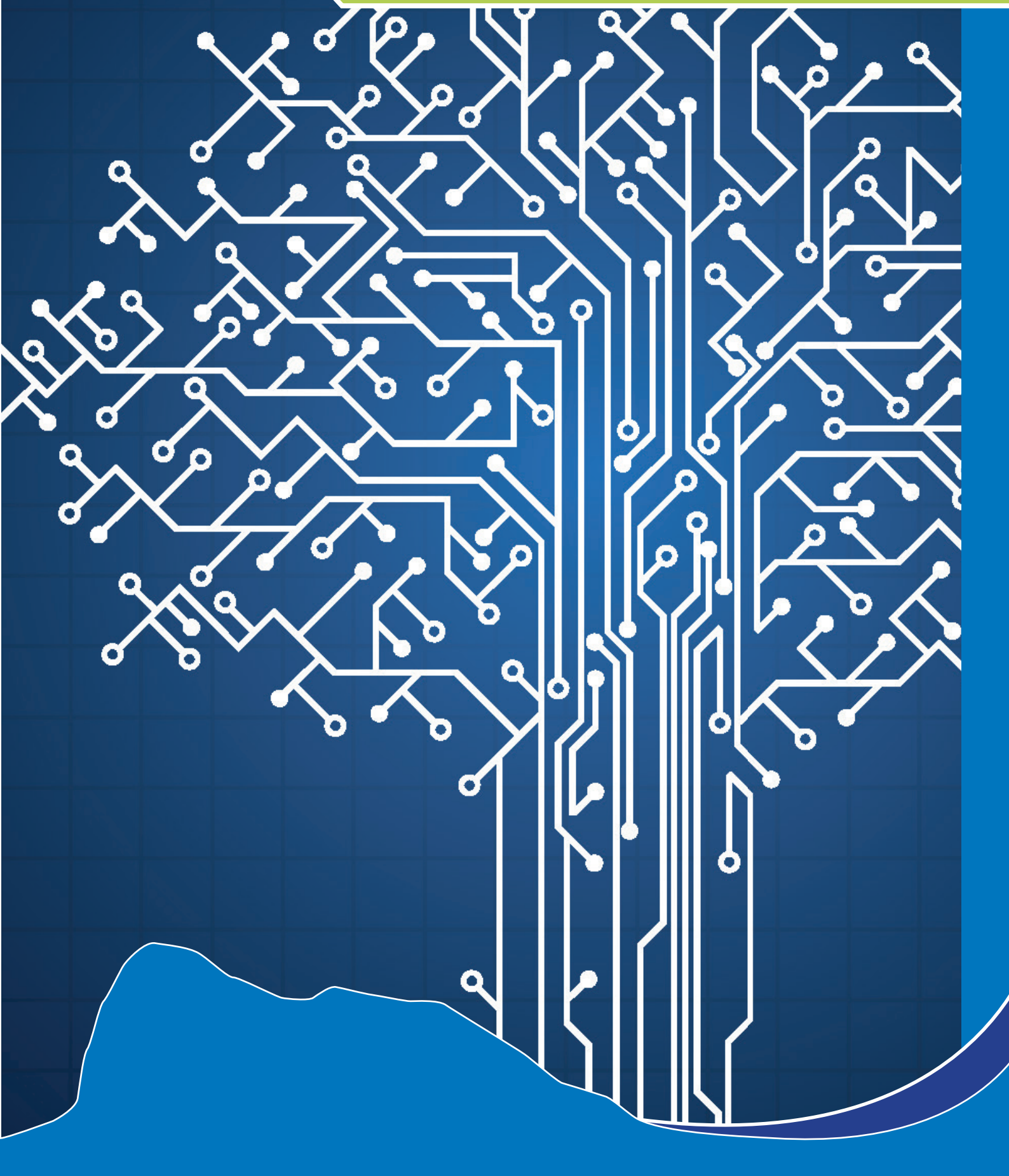
The Division is mainly responsible for regulating, supervising, and enforcing compliance with the requirements placed on certain entities under the act and providing guidance to operators of essential services or Digital Service Providers and drawing up Codes of Practice.

During this reporting year, the CYBERUK conference, which is the UK Government's flagship cyber security event and was scheduled to be hosted in Cardiff by the National Cyber Security Centre, was postponed due to the pandemic. The event was rescheduled to take place virtually on 11th and 12th May 2021. They will provide a series of top-level keynotes, interactive panel discussions and solution-based case studies. This event is attended by those with overall responsibility for cyber security in public office. There will also be a strong industry presence from across the UK and worldwide.

Revenue and Expenditure

During the 2020/21 financial year, the total collected was £1,719,368.15 which was paid into the Consolidated Fund. This compares to expenditure (calculated on a cash basis), for all of the GRA's divisions of £2,271,933.08.

ELECTRONIC COMMUNICATIONS



Introduction

The Electronic Communications Division ("the Division") is tasked with regulating, supervising, and enforcing compliance with conditions and specific obligations imposed upon providers of electronic communications networks and/or services ("providers"). The Communications Act 2006 ("the Act") sets out, among other things, the general functions of the GRA as regards electronic communications. The electronic communications sector is a rapidly evolving one and the Division seeks to ensure that consumer demands for competitive services are met.

During this reporting period, the electronic communications sector found itself at the centre of a world-wide pandemic which has had a tremendous global impact on the public and businesses alike. With the majority working from home, the demand for communications services during non-peak periods sky-rocketed from one day to the next with little warning.

The increase in demand for communications services posed challenges of an unprecedented nature. The Division could do little to relieve these difficulties, but nevertheless reached out to local providers to give them the opportunity to raise any concerns or issues they were encountering during lockdown. As can be read further on, some providers faced certain challenges and coped well when addressing these.

Notwithstanding the pressures of the pandemic, the local telecommunications market continues to flourish. The local consumer can now select a range of electronic communications services from a number of authorised providers and at a variety of price points, ranging from high value multi-service bundles to premium ultra-high-speed symmetrical broadband offerings. Competition and the demand for increased social interaction has pushed providers to further innovate and find ways of improving their offerings, with overall broadband speeds increasing once again during this reporting period.

The Division dedicated its resources to investigate which areas of its operations it should develop in order to improve the effectiveness of its interactions with the public and consumers of electronic communications services in general. These included the development of its social media publications, continued negotiations with providers on signing up to a voluntary code of practice, and the improved efficiency of data collection. Unfortunately, because of the pandemic, the Division decided to postpone the regular informal meetings with providers that started in early 2020 but hopes to revisit these at some point in 2021.

International Participation

The Division attended various webinars during the reporting year with a view to further improve its understanding on current matters. One of the webinars attended by a team member centred on the pandemic and how to enhance regulatory practices during these challenging times. The speakers discussed the impact of COVID-19 on the communications sector, particularly in relation to the worldwide lockdowns forcing entire populations to stay home and how this greatly increased their dependency on electronic communications services.

Another Division member attended a webinar on 5G and health misinformation and focused on the fake news stories centred around the dangers of 5G technology and its links to the pandemic, spreading on social media platforms, despite the lack of any scientific evidence to support those views. Two members of the Division also attended an online webinar hosted by the Italian Chapter of the International Institute of Communications ("IIC") on The Governance of the Telecoms Market, Competition, and Investments in the European Electronic Communications Code ("EECC"). It is important to note that, although the UK and Gibraltar have left the EU and Gibraltar is no longer subject to the provisions of the European regulatory framework, the GRA shall be monitoring any key developments in the sector including any relevant initiatives published by the European Commission.

On 24th December 2020, the Government published a new legislative package which included amendments to the Communications Act 2006, the Communications (Access) Regulations 2006, the Communications (Authorisation and Licensing) Regulations 2006, the Communications (Personal Data and Privacy) Regulations 2006 and the Communications (Universal Service and Users' Rights) Regulations 2006.

The Division has taken steps

to familiarise itself with the amendments and has made initial preparations to ensure that any changes to its day-to-day activities resulting from these amendments, are carried out seamlessly and without interruption or delay. The Division will continue to assess how the amendments change the way in which it carries out its functions and responsibilities in the future.

The Division will continue its supervisory role as well as monitor the electronic communications markets within its functions, in order to enhance its regulatory oversight annually to the advantage of consumers.

i. International Regulators Forum of the IIC, Ottawa, October 2020

Due to the travel restrictions brought about by COVID-19, the International Regulators Forum was hosted online by the Canadian Radio-Television and Telecommunications Commission based in Ottawa. One member of the Division joined over fifty regulators from around the globe to share insights and experiences and exchange new ideas on policy and regulation.

The event covered three core discussion themes, namely infrastructure, consumer protection and content regulation, with keynote speeches and moderated panel discussions delivered to suit regulators from all time zones. Interactive workshops with opening presentations by the Australian Competition and Consumer Commission and the Body of European Regulators for Electronic Communications ("BEREC") on "Learnings from the Pandemic" were also provided together and the opportunity for small group breakouts for regulators to share their thoughts and personal learnings.

In respect to infrastructure and ensuring access to technology and information, the regulator's role in working with industry in supporting the most vulnerable and disadvantaged was discussed in addition to what technological and structural trends the pandemic had accelerated. It was concluded that it is essential to ensure that services remain affordable while providing incentives to service providers to modernise and extend their coverage, while focusing on quality and price.

From a European point of view, BEREC's goal towards a gigabit society included the neutral use of fixed, mobile, and wireless technology networks in order to stimulate competition as the basis for all infrastructure investments, to promote sharing by issuing guidelines on regulatory assessment of investment to contribute to faster build-out and enable efficient deployment of broadband infrastructure and mobile networks.

In terms of consumer protection, discussions centred around consumer trust and the safeguards that should be implemented to achieve certainty within the marketplace. Critical communication and transparency were also highlighted as essential elements of maintaining good business practices. It was also recognised that industry plays a key role in leading the way towards achieving consumer confidence while also working together with regulators to obtain regulatory clearance of any policy or administrative process.

The telecoms regulator of India also stressed the need to revamp consumer protections to include billing transparency, protection of personal data and privacy, stating, "above all, it is important to create consumer awareness and education about the regulatory provisions so they can avail themselves of the services in the best possible manner". COVID-19 was undoubtedly highlighted as a great example of how industry, regulation, and national governments can work together to achieve their objectives.

Considering the challenges of the year, the event proved innovative and successful having attracted 190 delegates from 58 countries who heard from 31 speakers.

ii. Cullen International Seminar on the Weighted Average Cost of Capital for Legacy Telecoms Infrastructure, 21st October 2020

One Division member attended the online seminar in which the European Commission's observations on the significant discrepancies in National Regulatory Authority's ("NRA") estimates of the WACC as part of their market analysis notifications was discussed. The European Commission discovered that, in addition to there being a lack of consistency across Member States, some NRAs were using different methods at different points in time. The lack of harmonisation and such methodological inconsistencies were likely to distort investment incentives and hinder investment in electronic communications networks.

The seminar provided the

Division with useful information for a better understanding of the WACC parameters which could be applied to the analysis of the annual accounting separation report.

iii. IIC Italy Chapter Webinar: The Governance of Telecoms Markets – Competition and Investments in the EECC, 26th February 2021

Two members of the Division attended the online webinar. The speakers mostly focused on the EECC's investment promotion having become a new independent objective of the European regulatory framework. They highlighted several new provisions aimed to directly facilitate and incentivise the deployment and take-up of very high-capacity networks, whilst maintaining effective competition safeguards. One of the main aspects concerns the cooperative arrangements between investors and access-seekers to reduce costs and share investment risk.

The webinar debate shed light on some crucial issues related to market and regulatory incentives set by the EECC co-investment provision. Speakers discussed how consumer demand for ultrafast broadband services had resulted in unexpected developments driven by the seemingly prohibitive costs to provide consumers with the latest and greatest services. Fibre-to-the-Home ("FTTH"), for example, has invariably had to compete with other far cheaper less expensive solutions such as Fibre-to-the-Node ("FTTN"), which provide almost all the benefits of FTTH with only some of the drawbacks of legacy systems, illustrating how investment and the effectiveness of the balance between competition safeguards and investment incentives remains critical.

iv. IIC: 5G and Health Misinformation Amid COVID-19: The Facts and How to Communicate Them, 27th May 2020

The IIC webinar was attended by one Division member and focused on the fake news stories surrounding the dangers of 5G technology and its links to the pandemic, spreading online on social media platforms, despite the lack of any scientific evidence.

It was highlighted that as COVID-19 spread, so did a misinformation campaign linking the virus to 5G technology. In the UK, the conspiracy theories around 5G began in 2019, before the spread of COVID-19. People believed that the recent roll out of 5G masts around the UK caused harm to people living in those areas. In 2018, there were also claims that a 5G test in the Netherlands resulted in the death of 297 birds. The fact was that no 5G tests had been carried out in the Hague in 2018.

During the discussion, speakers described how conspiracy theories around 5G and COVID-19 continued to gain popularity in social media with celebrities sharing misinformation to their millions of followers online on Twitter and Instagram. Researchers in the BBC began tracking the misinformation campaign in the UK and realised there were over 200 public groups on social media interested in 5G conspiracy theories with 1.6 million shared posts. The misinformation was tracked outside the UK and had been translated and shared in over 150 different countries.

However, speakers stated that the real problem began in early April 2020 when the sharing of misinformation on 5G had real world consequences. During the COVID-19 lockdown, arson attacks on masts were becoming a regular occurrence within Europe, with 90 masts targeted in the UK and 30 masts in the Netherlands.

The motivating factors contributing to these attacks were the false stories circulating online linking 5G to COVID-19 and others suggesting the pandemic is a hoax, devised to give the Government greater control of the population using mobile phone technology.

v. IIC: Regulation in Times of Pandemic and Lessons for the Future: A European View, 12th May 2020

One member of the Division attended the webinar. The panel was composed of regulators from Italy, Sweden, UK and Germany and chaired by one of the Commissioners of the Irish regulatory authority.

Each regulator provided their views on the more pressing telecoms issues they are all currently facing under the pandemic, namely misinformation and fake news regarding 5G technology, consumer protection, traffic congestion issues, universal service obligations specifically regarding vulnerable customers and minimum broadband speeds, and the possible delays in full implementation and adoption of the ECC.

The webinar proved to be very interesting and provided an effective insight into the EU perspective of the communications industry during these exceptional times.

vi. IIC: 'Regulation in Times of Pandemic – The Cybersecurity Spike'

The webinar included presentations from speakers from every corner of the communications world.

The speakers discussed the impact of the pandemic on the communications sector, particularly in relation to the lockdowns forcing most of their respective populations to stay home and how this greatly increased their dependency on electronic communications services. Cybersecurity breaches encountered during the lockdown highlighted how criminals had exploited underprepared users of online work and learning platforms. In some cases, they had been targeted as their cybersecurity measures were either inadequate or non-existent and it was noted that this was likely due as a direct result of their immediate need to continue working or learning from home with little warning or time to prepare for these changes.

The increased burden on communications networks and internet service providers was also discussed at length, with most networks encountering little or no downtime because of the huge increase of internet traffic, particularly during the daytime. In order to maintain these networks, specialised employees were required to leave their homes and carry out their duties on-site, but the process of getting the necessary permits in place so that this could happen, was found to be cumbersome and bureaucratic, causing unnecessary delays. This is one of many issues which resulted from the lockdowns and one which highlighted the need for swift intervention.

Despite the issues being encountered, the panel took a positive view on the lockdown experience as both industry and regulators had been given an opportunity to learn from a worst-case scenario, one which many had simulated, but had never actually experienced, at least not to this scale. Systems, policies, cybersecurity, and accepted perceptions had been challenged and now the sector had measurable data to review and reflect upon in order to prepare for other future challenges.

Regulatory Matters

i. GibFibre Appeal to GRA Decision in Respect of Access to Gibtelecom Data Centre

In the 2019/2020 annual report, the Division informed that following the Court of Appeal Judgement that had been handed down in April 2019, where it ruled that the GRA had the relevant powers required to compel Gibtelecom to grant GibFibre access to its data centre, the GRA was considering appealing the matter to the Privy Council in order to seek clarification on this point of law.

The GRA resolved to proceed with the appeal of the Court of Appeal Judgment to the Privy Council and, on that basis, final leave was obtained from the Court of Appeal in December 2019 to appeal to the Privy Council.

The hearing has been set down for 6th and 7th October 2021.

ii. Accounting Separation Reports ("ASR")

Gibtelecom has been designated as having significant market power ("SMP") in various electronic communications markets, and is consequently subject to obligations of accounting separation, cost accounting and non-discrimination amongst others. One of its obligations requires that Gibtelecom annually submit an audited ASR, which is then revised by the Division to ascertain valuable information on Gibtelecom's various businesses. The ASR includes a breakdown of the electronic communications markets in which Gibtelecom is dominant, and includes accounting documents, attribution methodology documents and regulatory financial statements.

The deadline for the submission of the audited 2019 ASR was 30th September 2020 as per Gibtelecom's obligations. However, upon request from Gibtelecom, the GRA agreed to accept the unaudited 2019 ASR until such time as Gibtelecom was ready to submit an audited version.

The GRA is yet to receive Gibtelecom's audited 2019 ASR.

iii. Voluntary Code of Practice

During the last reporting period,

the GRA established a telephony and broadband voluntary code of practice ("VCOP") as a self-regulatory tool for authorised providers to consider and apply its principles to their business practices. The main objective of the VCOP is to provide more information and transparency to consumers and help them make more informed choices of products offered in the telephony and broadband markets.

Such information includes, but is not limited to, information on contracts, terms and conditions, bundles and tariffs, broadband speeds and how to resolve issues that may arise from time to time. The VCOP ensures that all customers who purchase the relevant fixed/mobile telephony and broadband services from providers receive the information under the principles set out in the VCOP. The principles set out in the VCOP 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.

In terms of training, the provider in question will have to ensure that its staff are adequately trained and that they have sufficient understanding of the products and services they are promoting and selling. Transparency is the primary driving force of the VCOP, and it is essential that customers can make informed choices about the type of service they sign up to and expect to receive upon entering into any contracts with the providers. To achieve this principle, the providers must use their best endeavours so that their employees ensure that, accurate, up-to-date, and meaningful information on telephony and broadband services are provided to potential customers before they enter into any contract or, in the case of existing customers, where their service has changed in any way or been upgraded/downgraded by the relevant authorised provider.

Furthermore, the providers must ensure that their customers are made aware that there is additional information on a particular product or service provided on the provider's website. This information shall include, but not be limited to, information on all relevant products, services, bundles, packages, and the like, along with their corresponding tariffs and prices. Information on any offers or discounts shall also be made available.

When customers experience a deteriorated broadband service, they generally encounter an interrupted service or slow speeds. These customers should contact their provider who in turn must aim to resolve the issue and restore the service to the expected broadband level required. In the specific case of broadband access line speeds, providers shall allow any customer to exit their contract without penalty, at any time during the contract under specific conditions.

The Division has been working with industry on this self-regulatory measure and is pleased to note that GibFibre have agreed to sign up to the VCOP and comply with its principles.

iv. Designation of Universal Service Provider

The aim of the Universal Service Obligations 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.

To this end, the Division carries out an annual exercise to ensure that any obligations are in keeping with the developing technologies used within the local market and are also representative of the products and services presently available to consumers.

In 2020, the GRA conducted a review of the Universal Service Obligations to evaluate any changes which may affect the current designated provider, Gibtelecom. As such, public consultation C05/20 was published on 10th July 2020 and allowed interested parties an opportunity to provide comments in respect of the Division's proposals.

The Division received comments from three operators, Gibtelecom, u-mee and GibFibre, who broadly accepted the Division's position on the designations proposed.

One item that was considered during this period was the minimum broadband download speed for functional internet access, which at the time of publication was 16Mbps. The Division acknowledged that there are many existing Gibtelecom customers who are still on a 16Mbps package but took note that this package was no longer available to new customers. This said, the minimum residential broadband package now available to all new customers in Gibraltar is

the 75Mbps download package offered by Gibtelecom.

Consequently, the Division was of the view that the minimum broadband data rate should continue to be set at 16Mbps as this is still sufficient for consumers to browse websites without significant delay, download large files and stream high quality content without major disruptions.

In response to the consultation, Gibtelecom made various comments in relation to the setting up of a Universal Service Fund and the sharing of the burden of Universal Service Obligation's. The GRA referred Gibtelecom to the Communications (Universal Service and User's Rights) Regulations 2006 and, in particular, to Regulation 11(1) and (2).

Regulation 11(1) states, "Where a designated universal service provider seeks to receive funding for the net cost of complying with a universal service obligation, he shall submit a written application to the GRA for such funding".

Furthermore, Regulation 11(2) states, "An application made pursuant to sub-regulation (1) shall be accompanied by such supporting information as may reasonably be required by the GRA in order to enable it to make a preliminary determination as to whether compliance with a universal service obligation may represent an unfair financial burden on the designated provider".

The Division, therefore, invited Gibtelecom to submit a written application in respect of such funding under separate cover. To date no applications have been received by the Division.

The Universal Service Regulations can also require the GRA to designate one or more providers to guarantee the provision of the universal services. Different providers can be designated to provide different elements of universal service. Usually, it is the incumbent operator who is designated to provide such services, although alternative providers may also decide to implement various universal services and they may be able to provide it at reduced costs.

Public Consultation C05/20 extended an invitation to all undertakings to provide any part of the universal services. However, the GRA did not receive expressions of interest from any provider.

After considering all the above, the Division issued Decision Notice C07/20 on 14th September 2020 which designated Gibtelecom as Universal Service Provider for a further year ending on 30th September 2021.

The minimum set of Universal Service Obligations provided by Gibtelecom include the following:

- provision of access at a fixed location;
- provision of telephone services;
- directory enquiry services and directories;
- public pay telephones;
- measures for disabled users; and
- affordability of tariffs for universal services.

v. Access dispute between GibFibre and Gibtelecom

Last year it was reported that the GRA had issued a Determination in July 2019 stating that Gibtelecom must provide a wholesale leased line to GibFibre. In August 2019, Gibtelecom filed a Notice of Appeal to the Supreme Court in respect of the GRA's Determination. The application for leave to appeal was heard on 12 November 2019, where GibFibre also intervened as an interested party.

The judgement was handed down on 14th February 2020, in which the Supreme Court granted Gibtelecom permission to appeal the GRA's Determination and that, subject to the condition that unless nothing other than "de minimis" equipment belonging to GibFibre be required in the data centre in order to provide the wholesale leased line to GibFibre, the Determination be stayed.

At the hearing, Gibtelecom argued that the appeal should proceed by way of re-hearing rather than by way of review with the aim of introducing new evidence not before the GRA when it made its Determination.

A Case Management Conference ("CMC") was set down for hearing on 14 July 2020 where the court made directions in respect to the future management of the appeal. The court noted that the hearing was by way of review and it was not open to Gibtelecom to raise that matter informally and without an application or proper notice to the parties and the court. Nevertheless, the court confirmed that any party who wished to adduce further evidence was to apply under the Supreme Court Rules in the usual manner.

As a result, two applications were heard on 3 and 4 November 2020. An application by Gibtelecom for permission to adduce evidence at the hearing of the appeal

and an application by GibFibre for clarification of the terms of the stay (i.e. the meaning of "de minimis") and for an order requiring Gibtelecom to provide GibFibre with the requested access.

The judgement was handed down on 27th January 2021, where the Supreme Court allowed Gibtelecom to adduce evidence together with any responsive evidence which the GRA and GibFibre may wish to rely upon. The court also rejected GibFibre's application on the basis that their proposal went further than the GRA's Determination. As such, GibFibre would not have access to Gibtelecom's Data Centre in the interim pending the outcome of the appeal.

The appeal remote hearing was set down for the 27th to 29th January 2021, however, following submissions from each party, the three-day appeal was adjourned on the basis that the court felt that the appeal was not suitable for remote hearing.

At the time of writing, no hearing date has been set by the Court of Appeal.

vi. Quarterly Statistical Data Gathering

The Division continues to rely on the statistical data submitted by local providers to carry out assessments of the various service markets in the local communications sector, giving the Division an insight on market trends, end-user preferences and service take-up on a month-to-month basis. It also serves to highlight the number of consumer complaints each provider is engaging in which may be indicative of emerging or underlying issues which may require regulatory intervention.

During this reporting period, the Division has published instances of significant market developments which have been observed during the previous five years of statistical data collection. In order to maintain the highest level of accuracy and fairness, the Division has once again supplied further guidance to providers to ensure accuracy and minimise errors when collecting the required data.

The Division will continue to work closely with providers to find ways to improve the accuracy of the data collected and doing so efficiently, making efforts to minimise disruptions to their regular operations.

vii. Mobile Infrastructure Sharing

The Division published Consultation C02/20 on 24th February 2020, in which it invited responses from interested parties. Considering some of the responses it received, the Division felt that the originally proposed measures required a review and decided that publishing a second consultation with an alternative set or measures was the best way to proceed. Accordingly, Public Consultation C06/20 was issued on 24th August 2020 in which it proposed an amended set of measures on mobile infrastructure sharing. Interested parties once again provided responses and the Division is currently addressing these.

viii. COVID-19 and its impact on Providers

COVID-19 has brought about an unprecedented time for Gibraltar and the world in general. As a result, keeping the communications industry going across Gibraltar has never been more important. During the last year, many sectors have played a vital role in supporting families, businesses, and individuals, as we all had to adapt to the way we live, work, and communicate during the pandemic.

In light of such exceptional circumstances, in May 2020 the Division corresponded with the local providers in order to determine if there were any issues they had encountered or were encountering during the first few months of the pandemic. Accordingly, the Division asked the different providers to share any relevant information on the matter in order to ascertain how customers and companies were coping and whether the GRA could assist them in any way. Responses were received from u-mee, GibFibre and Gibtelecom who all cooperated fully and provided useful information.

The Division was pleased to learn that Gibtelecom's business workflow encountered minimal disruption and that customers had been protected and kept up to date on matters to the greatest extent possible. Some of the challenges mentioned by Gibtelecom and the increased demands placed on their network came as no surprise to the Division, given that customers had been spending most of their time at home during the lockdown. However, it is interesting to note that the use of OTT services for mobile voice telephony increased throughout this period.

GibFibre and u-mee also expressed an increase in bandwidth consumption as a result of customers spending more time at home. Again, both providers experienced no disruptions to their normal flow

of service but some customers had made complaints in relation to Wi-Fi issues and/or broadband speeds. GibFibre explained that all complaints were investigated at the time and as a result they were able to identify and rectify saturated areas. Previously, some saturated areas may have been hard to identify but these were easy to rectify during lockdown as customers in the same household and/or area were connected to their broadband at the same time.

The Division was grateful to the providers for their feedback and the support offered to customers throughout such a difficult time and will not hesitate to reach out and support local operators in the future if any similar events occur.

ix. Social Media

The Division makes good use of its various social media platforms to ensure consumers and the local community are provided with the latest information on topics of interest and during the period under review, these included the following:

- Data gathering statistics;
- Brexit;
- Working from home during the pandemic;
- Choosing Broadband Provider;
- Broadband Speeds; and
- COVID-19 and the local industry.

Furthermore, the Division also publishes information and/or guidance as a series or sequence of slides or videos that run over the course of one week which focus on a particular topic, issue or process which is relevant at the time. The Division has published a series of social media slides on the following topics:

- Consumer Complaints and Disputes;
- Scam Calls;
- Misinformation on 5G and COVID-19;
- 5G; and
- Wi-Fi password security.

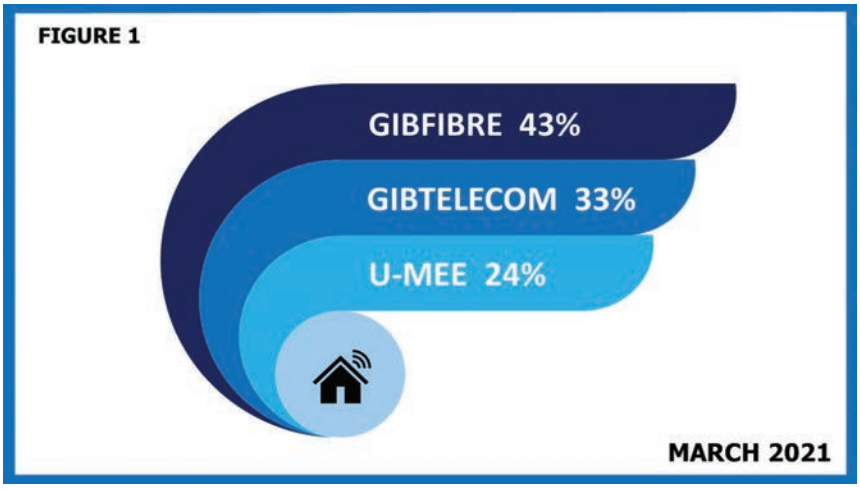
x. Statistics and Trends

As of March 2021, the total number of broadband subscribers increased from 19,523 in March 2020 to 21,839.

Figure 1 is an illustration of the fixed residential broadband market shares in Gibraltar as of March 2021. 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.

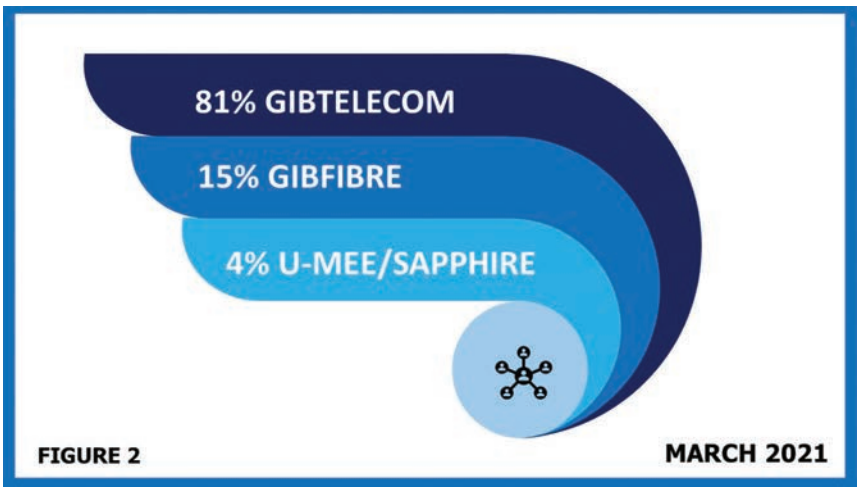
Despite a marginal increase in its subscriber numbers, Gibtelecom's fixed residential broadband market share has continued to reduce from 35% in March 2020 to 33% in March 2021. Similarly, u-mee has also experienced a slight decrease in its fixed residential broadband market share, from 26% in March 2020 to 24% in March 2021, that is, despite their subscriber numbers also having increased slightly. 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 39% in March 2020 to 43% in March 2021, thus cementing their position for the second consecutive year as the majority shareholder in the local residential broadband market.

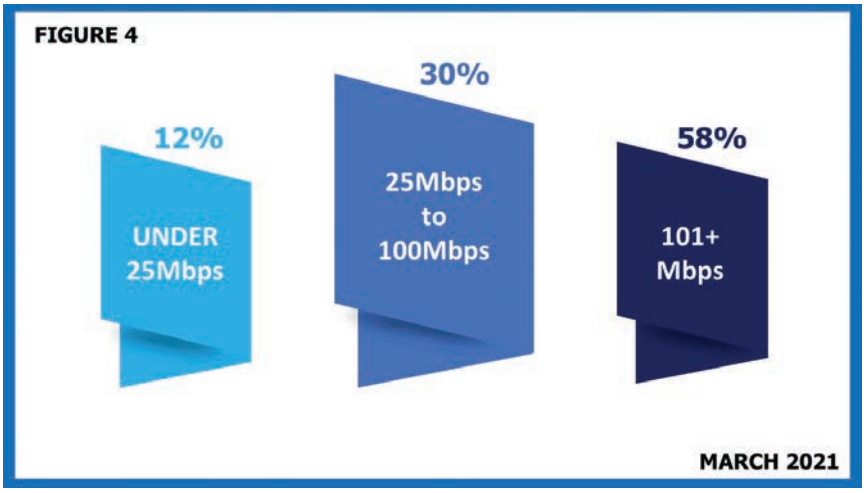
Figure 2 shows the fixed business broadband market shares in Gibraltar as of March 2021. In contrast to the major shifts that can be observed in the residential broadband market, the equivalent broadband market for business has experienced far less changes in market share during the period under review. Overall, the market has gained over one hundred new business customers, which shows that, in relative terms, the market is still on an upward trend. Despite Gibtelecom's market share having decreased slightly from 83% in the previous reporting year to 81% in March 2021, Gibtelecom continues to dominate the fixed business broadband market in Gibraltar. U-mee and Sapphire Network's market shares have effectively remained the same at around



1% and 3% respectively. On the other hand, GibFibre's market share has again increased from 12% in March 2020 to 15% in the current reporting year. GibFibre continues to develop its position in both the local broadband markets.

Figure 3 is a representation of the total number of pre-paid (pay-as-you-go type mobile services) and post-paid (monthly contract mobile services) mobile subscribers in Gibraltar. As of March 2021, the total number of pre-paid mobile subscribers was 20,407 and the total number of post-paid subscribers was 15,350 for a grand total of 35,757 subscribers, representing a gross decrease of almost 5,000 subscribers compared to the same period in 2020.





However, the number of post-paid subscribers increased slightly from 2020, with the overall decrease in subscriber numbers resulting from a loss of around 6,000 pre-paid subscribers. We understand that this decrease may have resulted from restrictions imposed on the movement of people into and out of Gibraltar during the Covid lockdown. Despite this fact, statistical data collated by the GRA over recent years, continues to highlight the propensity of subscribers taking up more post-paid services than ever before, possibly due to the increased availability of competitively priced post-paid mobile services which are bundled with inclusive data, call minutes and SMS's.

With operators competing for subscribers in both the business and residential broadband markets, Gibraltar's subscribers now benefit from a wide array of broadband products, ranging from ultra-high speed 1Gbps symmetric fibre broadband to more affordable offerings. With this in mind, Figure 4 shows the distribution of broadband packages in Gibraltar. The figures collected indicate that subscribers are tending towards high bandwidth packages, with the majority of all subscribers (58%), purchasing broadband packages with download speeds of 101Mbps or more. 30% of all subscribers purchased broadband packages with download speeds between 25-100Mbps and only 12% were on a broadband package of under 25Mbps. Figure 4 also 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 phased out.

Figure 5 represents the total

number of fixed call minutes of all local operators. During this reporting period, the total number of fixed call minutes has increased by 13% which is contrary to the established trend identified in previous reporting years, which showed a steady decline in the amount fixed call minutes. Statistics collected by the GRA show that over the past five years fixed call minutes had reduced by almost 50%, most likely attributable to the 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. However, with the above in mind, the increase of 13% may be due, in part, to the Covid lockdowns imposed on a national level and which has undoubtedly had a significant impact on usage trends with more people being stuck at home, unable to interact with their friends and family. Working from home, we suspect, may have also added to an increase in the number of fixed call minutes generated. It should also be noted that fixed telephony service providers are now offering significantly cheaper call tariffs than ever before, with some fixed calls being free of charge, meaning that subscribers are less mindful when making frequent and longer calls than they were doing previously.

Figure 6 shows the total number of mobile call minutes generated in Gibraltar. There is a slight decrease of 3% in the number of minutes when compared to the previous reporting year. This is in line with global trends which show that the use of mobile devices and OTT applications to make free calls over the internet (Wi-Fi, mobile data etc) are replacing the use of traditional mobile calls, with these figures experiencing a downward trend over the last few years. This decrease of 3% however must be considered in light of the restrictions imposed as a result of the Covid pandemic and its likely impact on subscriber usage habits and trends.

xi. Revenue Collected

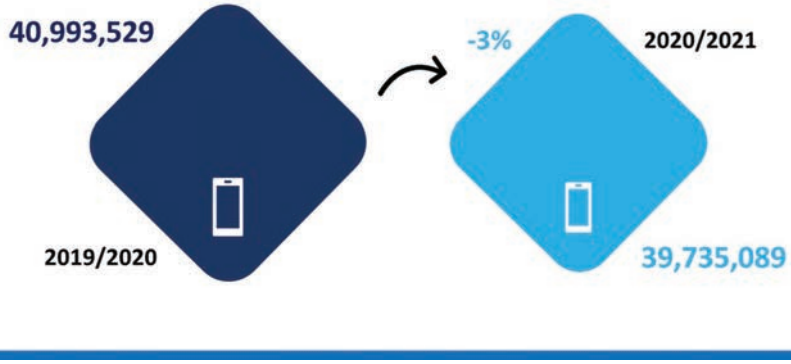
During the 2020/21 period and in accordance with the provisions of the Act, the total amount collected by the GRA in respect of General Authorisations was £858,894.

The total amount collected by the GRA in respect of Service Providers was £3,462.

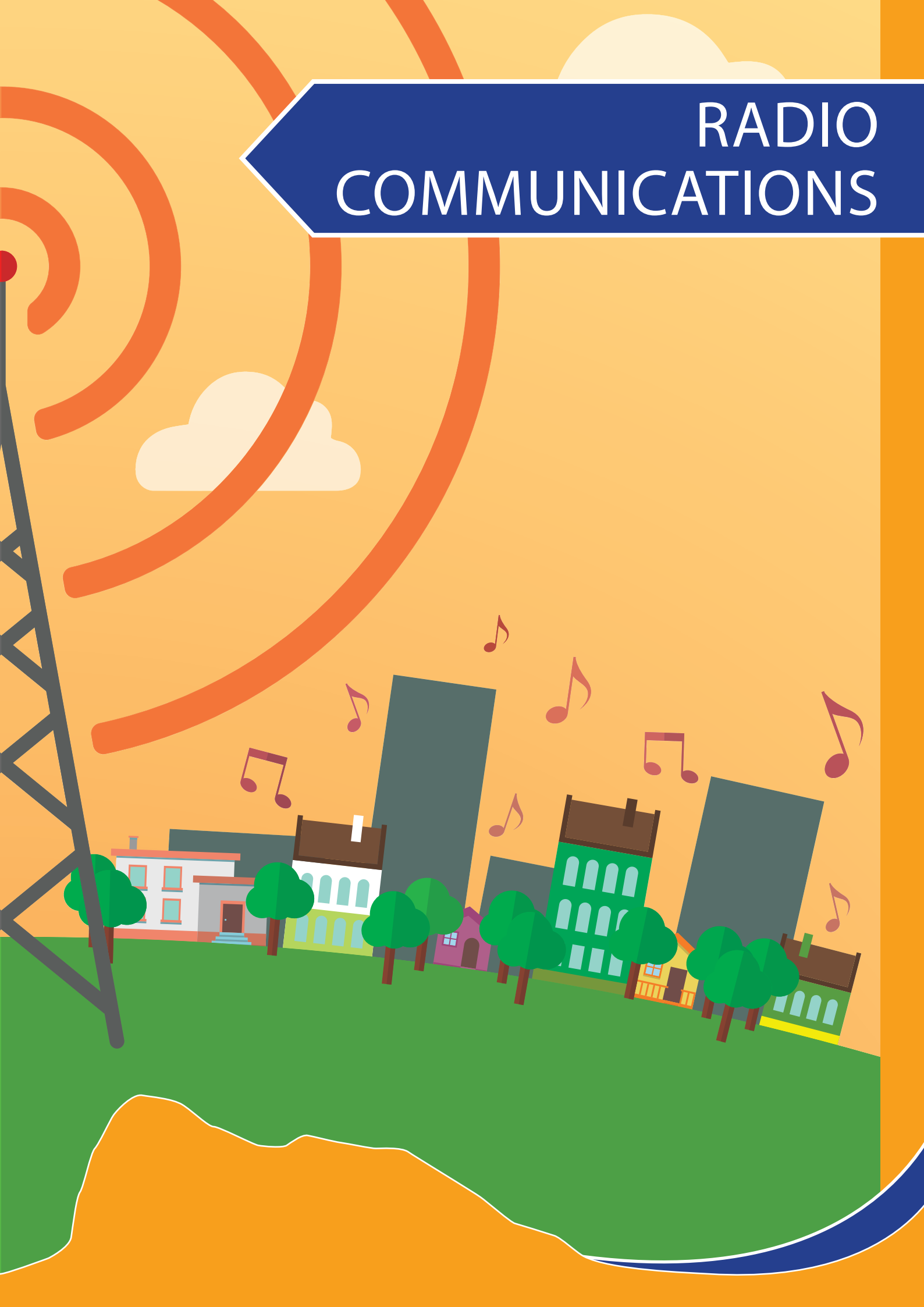
This has brought the total revenue for Service Providers and General Authorisations for 2020/21 period to £862,356.

FIGURE 5

FIGURE 6



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 and ensures compliance with the International Telecommunication Union ("ITU") Radio Regulations and all other 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 13 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 to ensuring that they operate within the recognised safe 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 which emit radio waves and has powers to approve radio transmitter equipment to be marketed in Gibraltar.

International Coordination & 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 32 filings with the ITU in 13 orbital slots around the geostationary orbit.

Gibraltar has a mature satellite industry and currently has 11 filings brought into use and notified with the ITU, with most of 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 715 satellite networks from different administrations around the world that could potentially affect SES-G networks (this includes potential harmful interference identified from a 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/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, no meetings have been held during this period. That being said, some headway has been made with minor agreements, where possible.

iv. SES-G Development Plan Review Meeting - Update

A virtual meeting was held between the Division, Ofcom and SES-G in June 2020 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 2020-2021, 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.

Regulatory Matters

Below is an overview of regulatory matters dealt by the Division during 2020/2021:

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 a number of 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

In preparation for the award of spectrum in the 700 MHz band, Gibraltar Freeview was instructed to power off Channel 56 by the internationally agreed date of 30th June 2020. Due to delays brought about by the pandemic, the agreed date of 30th June 2020 was pushed back to 30th September 2020 in many European countries. However, Gibraltar Freeview powered off Channel 56 before this deadline. In the future, the services on Channel 56 will be migrated to Channel 39, the registered replacement channel with the ITU, as part of the Gibraltar Broadcasting Corporation ("GBC") premises relocation. As part of this relocation project, Gibraltar Freeview aims to upgrade equipment and realign the services on its multiplexors to provide content on a DVB-T and DVB-T2 platform.

The GRA has also received three expressions of interest for Mobile/Fixed Communications Network ("MFCN") spectrum in the 3400 – 3600 MHz and 700 MHz bands.

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 invested in equipment to continuously monitor electromagnetic fields ("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.

In the period 2020/2021, 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, we have been investigating intermittent problems affecting the coverage area in Main Street, the Port, and the South District. Although the sources are yet to be identified, the Division continues to work closely with local network operators and other users of the spectrum to solve the problem. Although not designed for this purpose, the EMF monitoring project will help in detecting peaks and assist in the triangulation of interfering sources which, apart from disrupting existing networks, contribute to an increase in EMF levels.

b) GBC FM Radio Interference

The Division investigated an interference report from the GBC of an intermittent clicking sound breaking through in their 91.5 FM broadcast channel. After a coordinated effort between engineers from both the GRA and GBC, the source was identified, that being a remote garage door opener system from a housing development in the westside area. The management company was contacted, and, after further tests, the source was confirmed, and the problem ratified.

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 additional spectrum - mainly for the World Heavyweight Boxing Match and several football matches. Irrespective of the size of the event or of the amount of spectrum required, there are a number of 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. Licensing of the Electro-Magnetic Spectrum

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

Accounting Authorities	£8,500.00
AGRS	£441.00
CB Radio	£84.00
Earth Station	£17,316.00
Fixed Links	£10,190.00
Mobile	£662,608.00
Radio Microphone	£147.00
Paging	£310.00
PMR	£9,775.00
Port Ops	£3,450.00
Radar	£316.00
Radio Amateur	£312.00
Ship Station Licence	£40,020.00
Wireless Dealers	£2200.00
Spectrum Usage	£8,635.00
VSAT	£2,090.00

Furthermore, during the period 2020/2021, 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 £6,000.

vi. Outer Space Act

The UK's Outer Space Act 1986 was extended to Gibraltar by the Outer Space Act 1986 (Gibraltar) Order 1996, which conferred licensing and other powers 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.

Currently, there are six Gibraltar-licensed satellites, one of which was drifted and arrived at its new orbital location in December 2020. Although the spacecraft, AMC-18, had an existing Outer Space Act licence issued by Gibraltar, the GRA issued a replacement licence for the drift to and operation of the satellite at its new orbital location. The process involved close collaboration with the SES-G as well as the UKSA, to ensure the mission could be achieved and that all insurance liabilities where addressed.

INFORMATION RIGHTS

Introduction

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

Following the end of the Brexit transition period on 1st January 2021, which resulted in the United Kingdom's exit from the European Union and consequently Gibraltar's exit on the same date, the EU General Data Protection Regulation 2016/679 ("the EU GDPR") ceased to apply in Gibraltar. Gibraltar's exit from the European Union also means that the jurisdiction is now considered a "third country" for the purposes of the EU GDPR, which means that organisations within the European Union are required to implement measures before data is transferred to Gibraltar, thereby affecting the flow of data between the jurisdictions.

The EU GDPR has, by virtue of section 6 of the European Union (Withdrawal) Act 2019, been replaced by the Gibraltar General Data Protection Regulation ("the Gibraltar GDPR"). The Gibraltar GDPR for the most part mirrors the EU GDPR, although there are some differences, as detailed within the Data Protection, Privacy and Electronic Communications (Amendments Etc.) (EU Exit) Regulations 2019. The Act alongside the Gibraltar GDPR now provide the framework that governs data protection in Gibraltar.

In response to the change in regime, the Division published Brexit-related guidance and held dedicated Brexit-related workshops in the second half of 2020. The Brexit-related guidance published was in addition to other guidance published on the GRA website and social media platforms.

The Division introduced the use of short videos in its communications and engagement strategy. The use of video is expected to help attract greater attention to the guidance published by the Division. As in previous years, the Division has continued to respond to public concerns and has enhanced its awareness-raising initiatives to provide the support and guidance required by organisations and individuals alike. Amongst other things, workshops for Data Protection Officers, quarterly e-newsletters, public awareness events and the ongoing "Control Your Privacy" campaign, which aims to raise awareness of the risks to privacy from digital technology and promote its responsible use, have continued.

With regard to the COVID-19 pandemic, the Division has continued with its efforts to ensure that Gibraltar applies the highest standards of data protection, although accepting that the unique circumstances warrant some flexibility. Among other activities, the work surrounding COVID-19 has included meetings with officials locally and internationally, participation in international forums, and the provision of COVID-19 related guidance.

In an unprecedented year, filled with uncertainty, the Division has managed to remain fully operational in an efficient and effective manner.

International Participation

The Division has again this year participated in various international events, aiming to facilitate cooperation, coordination, and alignment of regulatory activity on a multi-jurisdictional level. Not only does this allow the Division to keep abreast of developments in relation to the regulation and enforcement of data protection globally, but it allows the Division to gain leverage from the expertise of other key players, thereby maximising the Division's efficiency and effectiveness.

The Division's international participation this year has included the following:

i. March / April 2020 - Global Privacy Assembly International Enforcement Working Group

The GRA was formally accepted as a member of the Global Privacy Assembly's ("GPA") permanent International Enforcement Working Group ("IEWG"). The Division has actively participated in its activities throughout the year, including –

• Video conferencing platforms -

On 16th April 2020 and 15th May 2020, the Division participated in teleconference meetings to discuss the increased use of video conferencing apps and related privacy risks.

On 21st July 2020, the Commissioner, and five other data protection and privacy regulators from around the world, jointly signed an open letter to companies providing

video teleconferencing services.

The letter recognised the value of video teleconferencing in keeping people connected but set out concerns about whether privacy safeguards are keeping pace with increased risks from the sharp uptake of these services during the current pandemic. The joint signatories provided video teleconferencing companies with principles to guide them in addressing some key privacy risks. The joint signatories sent the letter directly to Microsoft, Cisco, Zoom, House Party and Google. These companies were invited to respond and demonstrate how they take the principles into account in the development and operation of their video teleconferencing offerings. Microsoft, Cisco, Zoom and Google replied to the open letter. In their responses the companies highlighted various privacy and security best practices, measures, and tools that they advise are implemented or built-in to their video teleconferencing services.

In January 2021, the GRA and other data protection authorities published an update regarding their engagement with VTC service providers and next steps.

• Credential stuffing –

The IEWG hosts 'Safe Space Sessions' in which member authorities are able to discuss global issues that are of particular interest, in an intimate and strictly confidential setting. The GRA hosted a Safe Space Session on 8th March 2021 during which the Assistant Information Commissioner ("the AIC") delivered a presentation to members of the IEWG on the topic of 'Credential Stuffing'. Discussions on the topic, and its implications regarding data protection, followed.

GPA
Global Privacy Assembly

Microsoft cisco Google zoom

ii. 8th April 2020 - MLex Market Insight

The AIC was interviewed by MLex Market Insight. The interview touched upon facial recognition, cookies and GDPR enforcement.

iii. 15th April 2020 - Organisation for Economic Cooperation and Development ("OECD")

The Division participated in the OECD's online workshop on "Addressing the Data Governance and Privacy Challenges in the Fight Against COVID-19" hosted with the support of the GPA. Attended by over 260 participants representing governments, data protection authorities and international organisations, the forum explored frontline responses being considered and adopted worldwide.

iv. May 2020 - International Conference of Information Commissioners ("ICIC")

The Division provided feedback to the ICIC in relation to the ICIC's Strategic Plan. The ICIC connects Information Commissioners, Ombudspersons, and other bodies from around the world who are charged with overseeing the implementation of access to public information legislation, such as Gibraltar's Freedom of Information Act 2018. The GRA also supported a statement adopted by the sixteen members of the Governance Working Group of the ICIC, reiterating the importance of individuals' rights to access information during the pandemic.

v. June 2020 - United Nations Educational, Scientific and Cultural Organisation ("UNESCO")

The Division completed a national questionnaire for UNESCO, relating to freedom of information legislation and intended to collect data and information to assist in monitoring the overall global progress in ensuring public access to information.

vi. 18th June 2020 - British, Irish and Island's Data Protection Authorities ("BIIDPA")

The BIIDPA meetings take place annually and provide participating data protection authorities with an opportunity to discuss current and developing issues. This year, the Division participated in a virtual meeting, to discuss COVID-19 related matters in addition to communication strategies.

vii. 17th June 2020 - Centre for Information Policy Leadership ("CIPL")

The Commissioner attended an event hosted by the CIPL, which brought together representatives of international organisations and data protection authorities to discuss "Good and Effective Data Privacy Accountability".

viii. 2nd July 2020 - GPA Digital Education Working Group survey ("DEWG")

The Division contributed to the DEWG's efforts to promote the implementation of a Resolution on eLearning platforms. In light of the recent increase in the use of educational online platforms worldwide, it is the DEWG's position that this poses real technology and privacy-related challenges. The Division is working on a guidance note and aims to publish it during the course of the year.

ix. 2nd and 3rd July 2020 - Council of Europe ("CoE") – Convention 108 ("C-108")

The Commissioner participated in a virtual event organised by the Committee of C-108 and the CoE's Data Protection Unit, which was designed to present the work of the Committee to a broader audience than the delegations that usually attend the meetings in Strasbourg. The conference addressed the following topics:

- How to ensure that countries that commit to C-108+ comply with its provisions? Why do we need a follow-up and evaluation mechanism, and which one?
- How do we address the latest challenges posed by profiling in an AI era?
- What does the right to data protection imply in an educational setting? What schools have to do, and what they should stop doing?
- Are digital identity programmes being implemented with privacy by design?
- Mirror of our souls: learning Cicero's lessons and addressing facial recognition risks
- Political campaigns and elections: why is data protection so crucial?

x. 3rd July 2020 and 9th September 2020 - The Common Thread Network ("CTN")

The Commissioner attended teleconferences in which the implications and impact of COVID-19 on data protection related matters was discussed.

xi. July 2020 - GPA Privacy, Right and Freedoms Project

The Division contributed to work carried out by the GPA for the development of a GPA narrative report on the relationship between privacy and other rights and freedoms.

xii. 23rd July 2020 - Institutional Institute of Communications ("IIC") Privacy Podcast

The IIC hosted a privacy podcast featuring the Privacy Commissioner of New Zealand, in conversation with Gibraltar's Commissioner. The podcast discussed the differing approaches towards contact tracing and guidance for protecting privacy issues during the pandemic.

xiii. 29th July 2020 - IIC Webinar Privacy and Pandemic

The Commissioner moderated the IIC-hosted webinar, which discussed the evolving privacy and data protection considerations for the Telecoms, Media, and Technology sectors.

xiv September 2020 - GPA COVID-19 Taskforce Survey

The Division contributed to work being undertaken by the GPA that seeks to identify relevant experiences and best practices within the GPA community, regarding the privacy issues that have arisen in the context of the COVID-19 pandemic.

xv. 10th September 2020 - CIPL Project on Regulatory Enforcement Policy and Practice

The Division completed a questionnaire as part of a research project undertaken by the CIPL which aims to understand the extent to which regulators consider, in their enforcement, any relevant compliance mechanisms.

xvi. 1st and 2nd October 2020 - 14th International Conference: "Keeping Children and Young People Safe Online"

The Division participated in the 14th International Conference "Keeping Children and Young People Safe Online".

xvii. 8th October 2020 - GPA IEWG Practical Solutions for International Enforcement Cooperation

The meeting focussed on the topic of governance, and discussed the priorities, milestones and deliverables of the GPA going forward. A safe space session followed to discuss video teleconferencing platforms and the privacy concerns posed by their use.

xviii. 12th October 2020 - GPA IEWG Facial Recognition Technology Webinar

The Division attended a webinar during which key concerns, policy positions and regulatory experiences in relation to the development and use of Facial Recognition Technology were discussed.

xix. 13th to 15th October 2020 - GPA Annual International Conference

The conference's main event was its "closed session", which focused on working group reports and resolutions based on the work undertaken throughout the year. GPA members discussed a total of 5 proposed resolutions for adoption. The GRA acted as co-sponsor of the 'Resolution of Joint Statements on Emerging Issues'.

xx. 18th to 20th November 2020 - 40th Plenary Meeting of the Committee of C-108

The Commissioner joined over 100 participants from all over the world for the C-108 meeting. Convention 108 is the only global legally binding agreement on data protection law. Amongst other things, the C-108 meeting discussed law enforcement transborder access to data, facial recognition, data protection in an education setting, digital identity, and personal data processing by and for political campaigns.

xxi. 28th January 2021 - GPA Census 2020

The Commissioner completed an online survey designed to provide a comprehensive 'snapshot' of Data Protection and Privacy Authorities across the globe and assess how the data protection landscape is changing.

xxii. 28th January 2021 - GPA Data Governance in the Public Sector Survey

The Commissioner completed an online survey run by the GPA's Strategic Direction Sub-committee to assist in informing future GPA work relating to public sector data processing.

xxiii. 28th January 2021 - CoE – C-108 on Data Protection

To mark the 40th anniversary of Convention 108 and the 15th anniversary of Data Protection Day, the CoE published a report which included Data Protection Day events organised by participants of the Committee of Convention 108. The Commissioner contributed to the CoE's initiative by notifying of Data Protection Day activities in Gibraltar.

xxiv. 17th February 2021 – OECD

The Commissioner responded to the OECD's stakeholder consultation on its 'Draft Recommendation on Children in the Digital Environment' and 'Draft Guidelines for Digital Service Providers'. Both documents seek to support policymaking to ensure that the digital environment is both safe and beneficial for children.

xxv. 5th March 2021 - Global Privacy Enforcement Network ("GPEN") – Sweep

The Division is currently participating in this year's GPEN Sweep. The GPEN Sweep is a yearly initiative whereby privacy enforcement authorities, including the GRA, participate in a coordinated activity to assess privacy practices. The topic of this year's Sweep is "privacy considerations and COVID-19 related solutions and initiatives".

xxvi. 19th March 2021 – GPA Policy Strategy Working Group 1 ("PSWG 1")

The PSWG 1 has highlighted the need to identify key principles and common standards with regards data protection frameworks. The GRA, amongst other GPA members and observers, completed a questionnaire focusing on guarantees against disproportionate access to personal data by government and public authorities.

Regulatory Matters

The following is an outline of the regulatory matters which the Division has been involved in during the reporting period 2020/21.

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

Remaining an important point of contact for the public and organisations alike, through inbound enquiries the Division can gain an understanding of areas of particular concern with regards data protection. In response to queries, the Division provides guidance to individuals and organisations.

The 180 enquiries received this year are categorized by subject matter so that the Division can assess any predominant areas in respect of which the public could benefit from additional guidance, or which merit the Division's attention otherwise. (Figure 1 overleaf)

As evident from Figure 1,

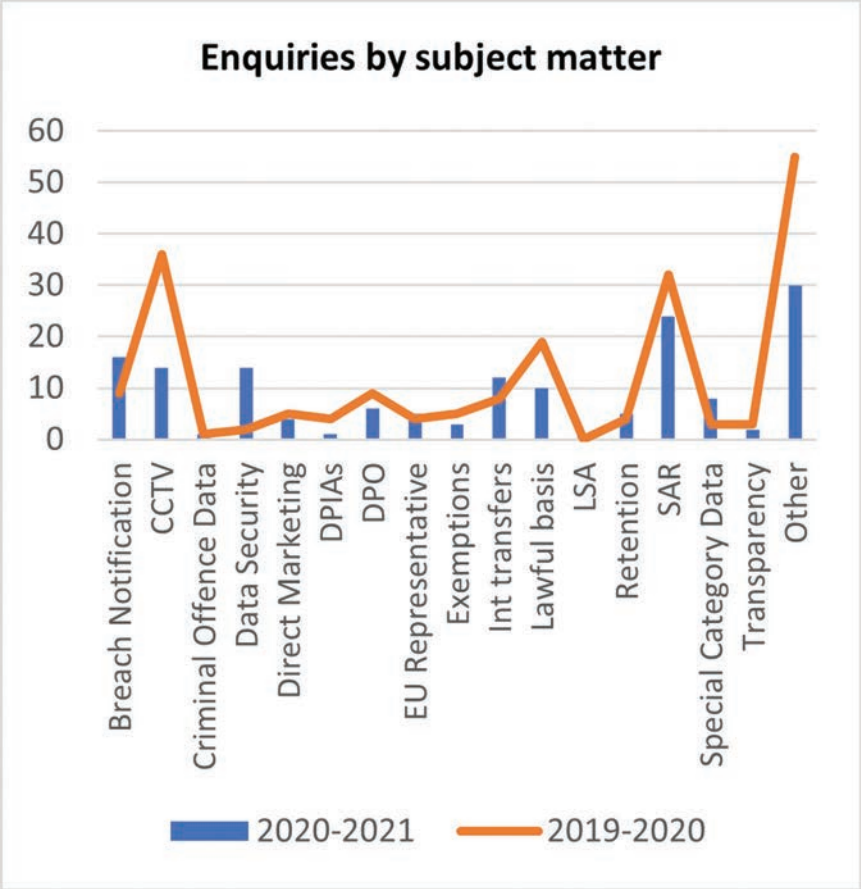


Figure 1

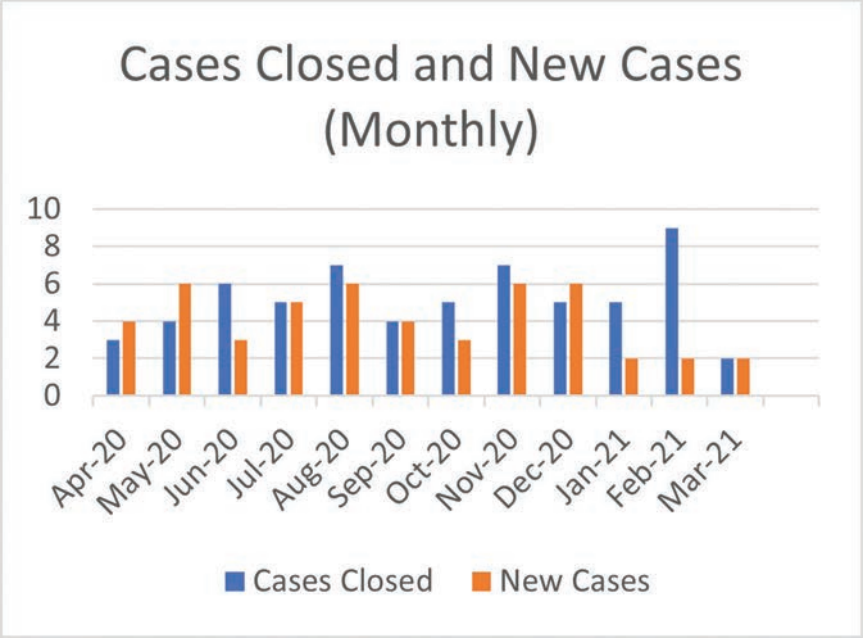


Figure 2

enquiries relating to data security, CCTV, breach notifications, and subject access requests ("SAR"), top the chart when categorized by subject matter.

Of particular significance is the increase in enquiries relating to data security. Matters relating to data security and measures implemented in respect of the same have been on the Division's radar during recent years due to increased use of technology, and in particular this year following an increase in homeworking as a result of the COVID-19 pandemic.

In response, the Division issued guidance on Data Security in March 2020, supplemented by a session on the topic within the DPO Workshops held in December 2020.

Interestingly, the high number of enquiries relating to SARs mirrors the dominance of SARs amongst inbound cases this reporting year. The Division responded by updating its guidance note on the subject in November 2020 and launching a campaign relating to individual rights under data protection legislation during Q1 2021.

Notably, enquiries relating to international transfers have also increased during this reporting period, said increase considered to be a result of the Brexit transitional period coming to an end, and again resulting in the update by the Division of its guidance note on the matter.

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/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, during 9 of the 12 reporting months, the number of cases closed was equal to or greater than the number of inbound cases. This has resulted in an overall net decrease in active cases and has in turn allowed the Division to concentrate additional efforts on issuing guidance notes on various topics and expanding

their international presence. The Division's internal complaints handling procedure, as introduced last year, has proven to be an invaluable resource in the improvement of efficiencies, leading to better management of investigations and the Division's workload generally. (Figure 2)

Importantly, a distinction can be made between cases closed without requiring a full investigation (e.g., because of 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, 49 cases have been opened by the Division. In turn, 48 cases have been closed without requiring a full investigation, in contrast to last year's 36, 33 of the 36 which were closed following the introduction of the Division's new internal case handling procedure. This year's increase in case closures without requiring a full investigation are testament to the effectiveness of the new procedure now that the same has been fully established.

Notably, SARs have, as was also the case last year, been the subject matter of most cases, with issues relating to data sharing following closely thereafter.

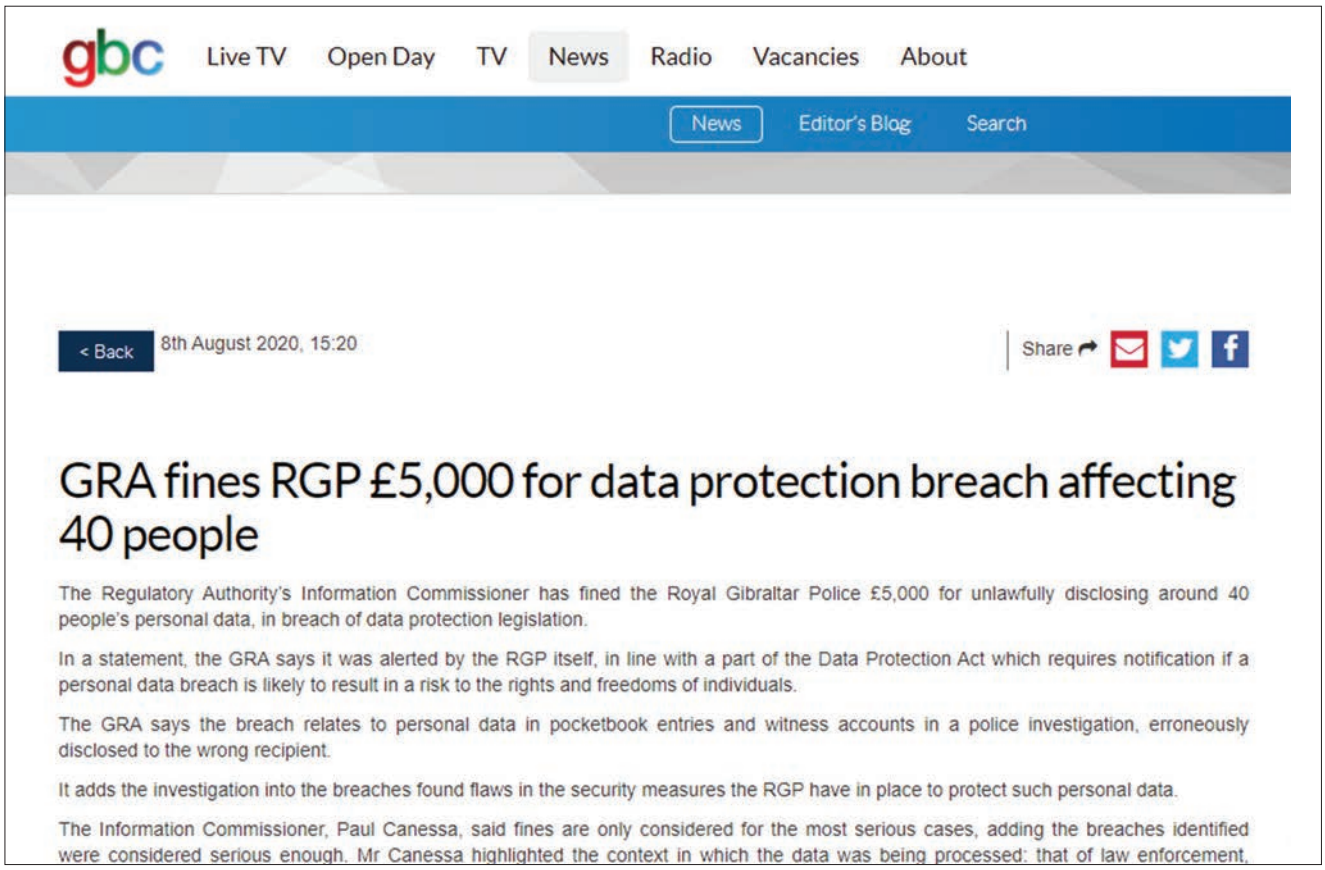
The period 2020/21 saw the Division complete and close a total of 13 cases that involved full and thorough investigations that lead to a formal decision by the Commissioner, and enforcement action where appropriate. The Division's actions are subject and proportionate to the circumstances of the particular case, including amongst other matters, a data controller's compliance history, cooperation with our office, and willingness to take corrective action.

Although not applicable to the vast majority of cases, the Commissioner at times requires use of his enforcement powers as granted under Part VI of the Act. This year saw the Commissioner issue the first monetary penalty since the introduction of the EU GDPR in May 2018.

The cases and any enforcement action taken in the reporting year 2020/21 are summarised in the table below.

Note: The Act was amended on 25th May 2018 to implement and complement the EU GDPR in Gibraltar. References to the Act prior to 25th May 2018 will refer to the "DPA". References to the Act after 25th May 2018 will refer to the "amended DPA".

Note: The EU GDPR was replaced by the Gibraltar GDPR on 1st January 2021. References to the GDPR prior to 1st January 2021 are to the EU GDPR. References to the GDPR after 1st January 2021 are to the Gibraltar GDPR unless stated otherwise.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GRA fines RGP £5,000 for data protection breach affecting 40 people

The Regulatory Authority's Information Commissioner has fined the Royal Gibraltar Police £5,000 for unlawfully disclosing around 40 people's personal data, in breach of data protection legislation.

In a statement, the GRA says it was alerted by the RGP itself, in line with a part of the Data Protection Act which requires notification if a personal data breach is likely to result in a risk to the rights and freedoms of individuals.

The GRA says the breach relates to personal data in pocketbook entries and witness accounts in a police investigation, erroneously disclosed to the wrong recipient.

It adds the investigation into the breaches found flaws in the security measures the RGP have in place to protect such personal data.

The Information Commissioner, Paul Canessa, said fines are only considered for the most serious cases, adding the breaches identified were considered serious enough. Mr Canessa highlighted the context in which the data was being processed: that of law enforcement,

Reference Number and Data Controller	Investigation Summary
IV36/18 Corinthian Group of Companies ("Corinthian")	The investigation concerned a response to a SAR. Articles breached: Articles 12 and 15 of the GDPR. Corinthian provided information in response to the SAR, but this was not provided within the prescribed timeframes and was incomplete. As a result of the investigation, Corinthian were required to provide the Complainant with any further personal data which was required to be disclosed in accordance with the provisions of the Act and/or the GDPR. Corinthian provided the Complainant with additional information, following which no further action was required, taking into account the circumstances of the case and corrective action taken.
IV44/18 Petfre (Gibraltar) Limited ("Betfred")	The investigation concerned a personal data breach notification received from Betfred. Articles breached: Articles 5(1)(f), 28(1) and 32 of the GDPR. Betfred was required to take corrective action to ensure their security measures complied with the GDPR. The Commissioner issued Betfred with a Reprimand. No further action was required, taking into account the circumstances of the case and corrective action taken.
AmRes 13/19 Hillside (Sports) GP Limited ("HSGP")	The investigation concerned the disclosure of personal data relating to a bet365 account from HSGP to third parties. The Commissioner could not conclude that there had been a breach of the GDPR and/or DPA.
AmRes18/19 Gibraltar Financial Services Commission (the "GFSC")	The investigation concerned a response to a SAR. Articles breached: 12(2), 12(3) and 15 of the GDPR. The GFSC provided information in response to the SAR, albeit outside the prescribed timeframe. No further action was required, taking into account the circumstances of the case and corrective action taken.
AmRes 21/19 Xapo (Gibraltar) Limited ("Xapo")	The investigation concerned a request for erasure of personal data and information provided to individuals regarding the retention of their personal data by Xapo. Articles breached: 5(1)(a), 12 and 13 of the GDPR. Xapo provided information in response to the request for erasure, although some information was provided outside the prescribed timeframe. Xapo also reviewed their arrangements to provide individuals with the information at Article 13 of the GDPR. No further action was required, taking into account the circumstances of the case and corrective action taken.
AmRes 24/19 Payoneer (EU) Limited ("Payoneer")	The investigation concerned Payoneer's procedures to opt out of direct marketing, the processing of personal data using cookies and the sharing of personal data with third parties for marketing purposes. Sections breached: Regulations 5 and 23 of the Communications (Personal Data and Privacy) Regulations and Articles 5(1)(a), 5(1)(f), 5(2), 6, 7 and 32 of the GDPR. As a result of the investigation, Payoneer reviewed their procedures for the processing of personal data for direct marketing purposes and for the obtaining of consent for its use of cookies, to ensure these comply with the relevant requirements of the Communications (Personal Data and Privacy) Regulations and GDPR. Further, Payoneer ceased the sharing of personal data with third parties for marketing purposes.
AmRes27/19 Resident of Waterport Terraces (the "Resident")	The investigation concerned the use of a CCTV system (the "CCTV System") by a resident within the parking area at Waterport Terraces. It was established that the CCTV System was no longer processing personal data. No further action was required, taking into account the circumstances of the case.

C31/19 Gibraltar Car Parks Limited ("GCPL")	The investigation concerned the response to a SAR. Sections breached: Articles 12(1), 12(2), 12(4) and 15 of the GDPR. The Commissioner issued GCPL with an Enforcement Notice, a Notice of Intent to issue a monetary penalty and a Penalty Notice. GCPL were required to take corrective action to ensure their procedures for facilitating SARs complied with the GDPR.
C45/19 Gibraltar Courts Service of Her Majesty's Government of Gibraltar (the "GCS")	The investigation concerned the disclosure of personal data. Sections breached: Section 44(1), 44(2), 49, 65(1), 65(2), 65(3) and 75 of the Act. As a result of the investigation, the GCS reviewed their security procedures and introduced new measures to mitigate the risk of similar unlawful disclosures of personal data in future. No further action was required, taking into account the circumstances of the case and corrective action taken.
C54/19 A former employee of a Law Firm (the "Employee")	The investigation concerned a suspected offence under section 175 of the Act. On the information available, the Commissioner was unable to progress the case and could not conclude that there had been a breach of the GDPR and/or DPA.
IV01/19 Gibraltar Car Parks Limited ("GCPL") Gibraltar Parking Management Services Limited ("GPMSL") Securitek Limited ("Securitek")	The investigation concerned the circulation of CCTV footage which appeared to originate from a CCTV system located in the Midtown Coach and Car Park. Sections breached by GCPL: Articles 5(1)(f), 5(2), 28(1), 28(3) and 33 of the GDPR. Sections breached by GPMSL: Articles 5(1)(f), 5(2), 28(3), and 28(4) of the GDPR. Sections breached by Securitek: Articles 5(1)(f), 5(2), 28(3) of the GDPR. The Commissioner issued GCPL with an Enforcement Notice. GCPL were required to take corrective action to ensure compliance with Articles 28, 5(2) and 5(1)(f) of the GDPR. Further, GCPL were required to review their procedures in regard to notifying the Commissioner of personal data breaches, to ensure compliance with Article 33 of the GDPR.
C01/20 Gibraltar Car Parks Limited ("GCPL")	The investigation concerned the breakdown of servers relating to the CCTV system located in the Midtown Coach and Car Park. Sections breached: Article 5(1)(f), 5(2) and 32 of the GDPR. GCPL were required to review their arrangements to ensure their security measures complied with the GDPR, including ensuring appropriate back-ups are in place.
C06/20 Lottoland Holdings Limited ("LHL")	The investigation concerned the lack of clarity in relation to data controller/data processor relationships within the Lottoland Group, as well as issues relating to identification of the 'main establishment' for data protection purposes. As a result of the investigation, it was established that LHL, an entity based in Gibraltar, is the data controller and the 'main establishment' for data protection purposes in respect of the Lottoland Group and is responsible for taking and implementing all final decisions relating to personal data as processed by all entities within the Lottoland Group.

c) Data Breach Notifications

Article 33 of the EU GDPR and now the Gibraltar GDPR, provides certain circumstances under which controllers must notify the Commissioner of a personal data breach suffered by their organisation. Upon receipt of a breach notification, the Division review the actions taken by the data controller prior to, and in response to, such breach. Where appropriate, the Division will make recommendations on further measures to mitigate the risks of future occurrences. Where necessary, enforcement action may also be taken.

As reflected in Figure 3, during the reporting period the Division received 30 data breach notifications (25 were received during the previous year). Of all data breach notifications, including new cases and those continuing from previous years, 24 have been closed and 13 remain ongoing. (Figure 3)

Notably, when adding different forms of cyber-attack, such as phishing, brute force attacks, credential stuffing etc. approximately 25% (7 of 29) of data breaches notified to the Division during the reporting period have been a result of a cyber-attack. Exposure to cyber-attacks is an area of growing concern from a data protection

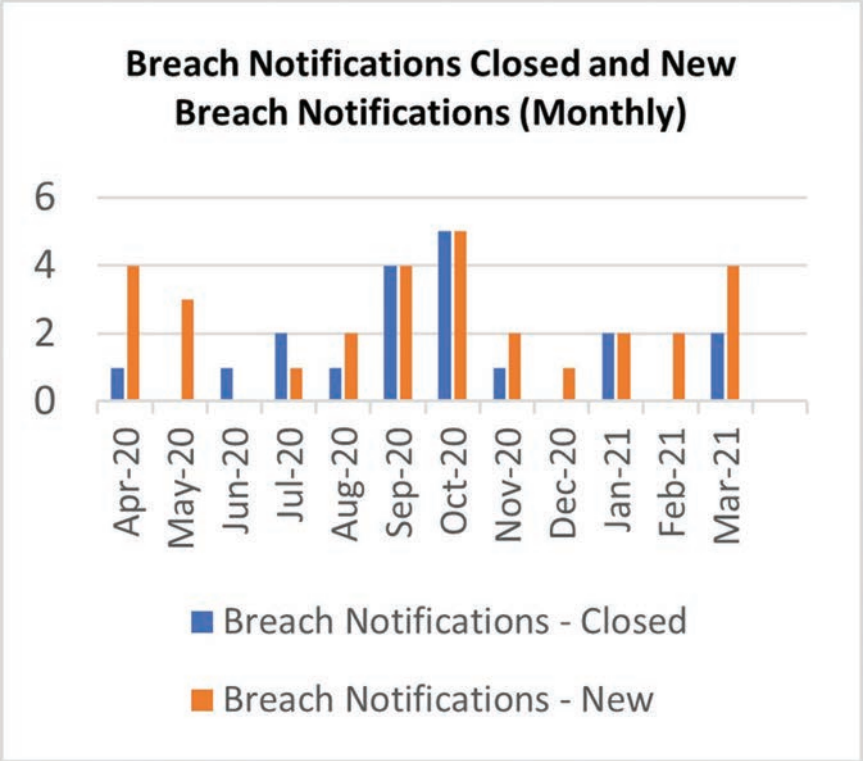


Figure 3

perspective, and the Division is hoping to focus additional efforts on providing guidance on the area in the coming year.

d) Data Protection Audits

The aim of all 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 its data processing operations. Enforcement action may be taken where necessary.

As noted in last year's annual report, the Division was hoping to restart its inspections in 2020. However, due to the COVID-19 pandemic and restrictions arising as a result of the same, the Division has been unable to carry out any on-site audits during the reporting period. The Division has nevertheless taken the opportunity to formalise its audit process by creating a documented internal procedure for conducting these and has instigated data protection audit procedures for two organisations by requesting information to carry out a desktop review, which is to be followed by onsite visits.

ii. Data Protection Guidance

The Division continues to provide guidance by proactively publishing guidance notes and by organising 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

- Guidance on the Concepts of Data Controller and Data Processor (published March 2021)

Provides guidance on the concepts and the different roles and responsibilities of a 'data controller', 'data processor' and 'joint controllers' under the Gibraltar GDPR and the Act. Understanding these concepts is essential in the application of the Gibraltar GDPR, as it allows organisations to determine who is responsible for data protection compliance and how data subjects can exercise their rights.

- The Rights of Individuals under the Gibraltar GDPR (published January 2021)

Provides detailed guidance on the rights of individuals under the Gibraltar GDPR and the Act in relation to the processing of their personal data. It aims to assist individuals in understanding these rights and providing key procedural information in respect of each. The guidance is equally useful for organisations, to assist them in determining how best to process personal data to ensure the rights afforded to individuals under the applicable data protection legislation are upheld.

- Guidance on Consent (update published January 2021)

This Guidance Note was updated to reflect the European Data Protection Board guidelines on consent under the EU GDPR, the same which is also relevant to the Gibraltar GDPR. Consent is one of the lawful grounds for the processing of personal data under Article 6 of the Gibraltar GDPR. Explicit consent is one of the lawful bases that can be relied on to process special categories of personal data or personal data relating to criminal convictions and offences.

- Getting ready for a "no deal" Brexit (published December 2020)

In the run-up to the end of the Brexit transition period, this Guidance Note was updated to provide organisations with advice and assistance on how

to ensure the uninterrupted flow of data crucial to business and other activities. It provides advice on "international transfers", "six key steps that organisations should take", and "advice on the use of standard contractual clauses" (likely to be a popular mechanism to protect the ongoing transfer of data to and from Gibraltar).

- The Right of Access (update published November 2020)

Published to update previous guidance on SARs. This Guidance Note sets out key points that organisations need to be mindful of when handling SARs and provides practical tips to assist organisations ensure that they comply with data protection law when responding to SARs.

- Guidance on the use of CCTV (update published November 2020)

Published to update previous guidance on CCTV. The use and capability of CCTV systems has since expanded and the update therefore provides good practice guidance for those involved in operating CCTV and other surveillance camera devices, to better understand their responsibilities and obligations in regard to data protection when using CCTV.

- Guidance on Video Conferencing (published October 2020)

This Guidance Note was published in the wake of the COVID-19 pandemic due to the increased use of Video Conferencing Applications ("VCAs"). It provides information to individuals on how to protect their personal data and privacy when using VCAs; as well as guidance for organisations on data protection compliance when using VCAs.

- Data Protection and Brexit for Law Enforcement Authorities (published September 2020)

This Guidance Note provided a five-step checklist to assist Law Enforcement Authorities ("LEAs") in preparing for data protection compliance in the event of a no-deal Brexit. As per sections 39 and 40 of the Act, the processing of personal data by a LEA (referred to as a "competent authority" in the Act) for "law enforcement purposes" is regulated by Part III of the "DPA", and not the Gibraltar GDPR.

- International Transfers (update published September 2020)

Published to update previous guidance on the matter. Provides summary guidance on the provisions in Chapter V of the EU GDPR (this is mirrored by the Gibraltar GDPR which has superseded the EU GDPR) regarding transfers of personal data to third countries or international organisations. This guidance is useful to data controllers and processors in Gibraltar as it identifies the mechanisms that may be used to maintain ongoing data flows to Gibraltar from the EU/EEA.

- Guidance on the Information Commissioner's Regulatory Action (update published August 2020)

Published to update previous guidance on the matter. Provides guidance on the regulatory action that the Commissioner may take under the Act and, following Brexit, under the Gibraltar GDPR.

- COVID-19: Temperature Checks (published July 2020)

Published in the wake of the COVID-19 pandemic due to the rapid developments in the use of thermal imaging cameras to check the body temperature of individuals.

- Guidance on Exemptions (published June 2020)

Includes guidance regarding the various exemptions that the Act provides from particular provisions in the EU GDPR, and now the Gibraltar GDPR. The exemptions relieve organisations from some obligations in certain situations, such as when it is necessary to safeguard the prevention and investigation of crime, management planning or to protect the rights of others. However, the exemptions can only be relied on where necessary, and organisations should justify and document the reasons for relying on an exemption.

- Data Protection Impact Assessments (update published May 2020)

Provides general advice on the requirement for organisations to carry out a Data Protection Impact Assessment ("DPIA") for any high-risk data processing activity.

- COVID-19: Contact Tracing and Location Data (published April 2020)

Provides information and guidance in respect of the rapid developments in the use of technology to support the fight against COVID-19, in particular technology to trace contact amongst the population, and to map the spread of the virus. Applications should adopt robust security (including the use of encryption, and covering each stage of the data processing), data minimisation, transparency and user control, and any supporting technology, including centralised processing to support contact tracing, should follow the same principles.

b) Local Workshops/ Organisational Awareness

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

- BREXIT: The End of the Transition Period

The Division intensified their work regarding Brexit and the end of the transition period, to assist organisations through this transition. A series of Brexit related workshops were held during September and December 2020, the aim of which were to learn about, discuss and assist with any data protection related concerns and/ or queries that organisations had in relation to Brexit.

- Workshop for Data Protection Officers

In March 2019, the Division launched a programme for the organisation of periodic data protection Workshops for Data Protection Officers ("DPO Workshop") as part of the Division's efforts to promote awareness and aid data controllers in relation to their data protection obligations.

Virtual workshops were held on the 16th and 17th December 2020. These were well attended, with over 70 participants in attendance over the two days. The topics discussed related to data security, privacy notices, exemptions, and data controller/ processor agreements. The feedback received from participants was positive.

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

The Division has commenced preparations for a fourth DPO Workshop to be held in April 2021. DPO's can register their interest in attending DPO workshops by contacting the Division by email on dpoworkshops@gra.gi

c) Registers

- Register of Data Protection Officers ("DPO")

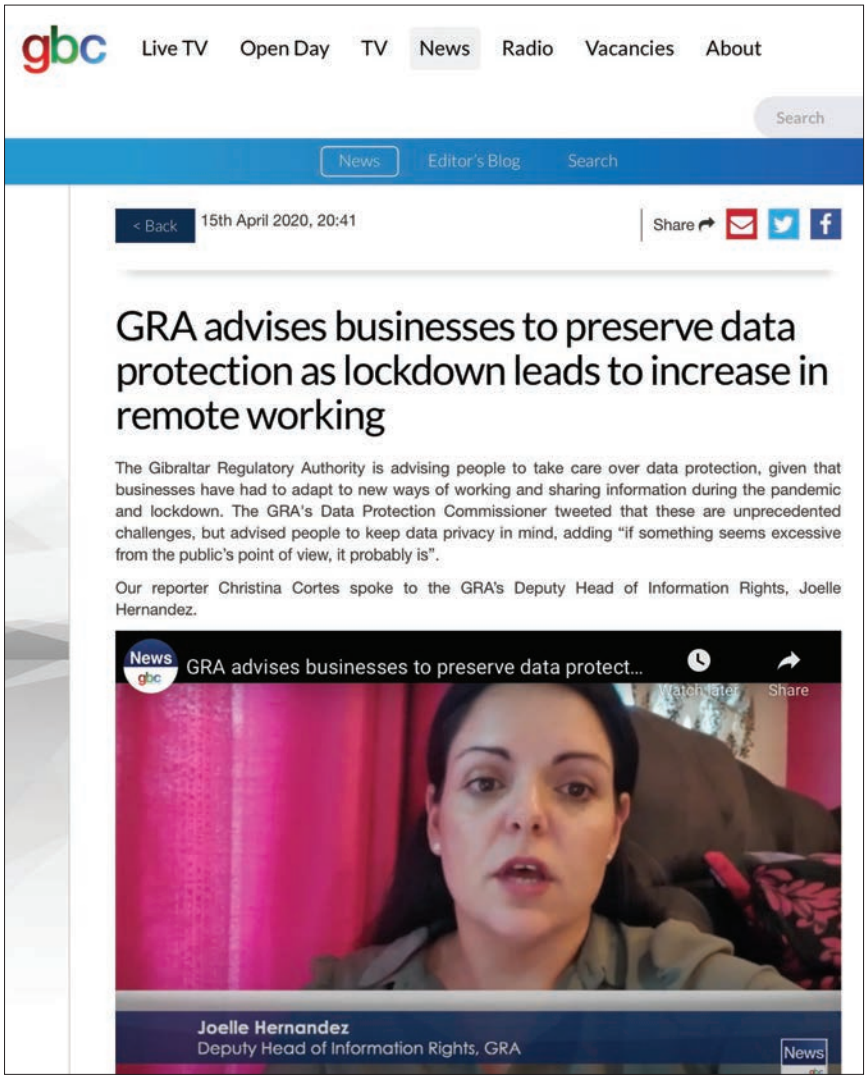
In accordance with section 138 of the Act, the Commissioner continues to maintain a public Register of DPOs. Organisations wishing to include their DPO within the register may notify our office by submitting the DPO Notification Form which can be downloaded from the GRA's website.

- The Opt-Out Register

In 2013 the Commissioner launched the Opt-Out Register for fax and telephone, based on provisions found in the Communications (Personal Data and Privacy) Regulations 2006 and the Commissioner is the supervisory authority empowered to regulate and maintain this Register. 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:

• Media Engagement

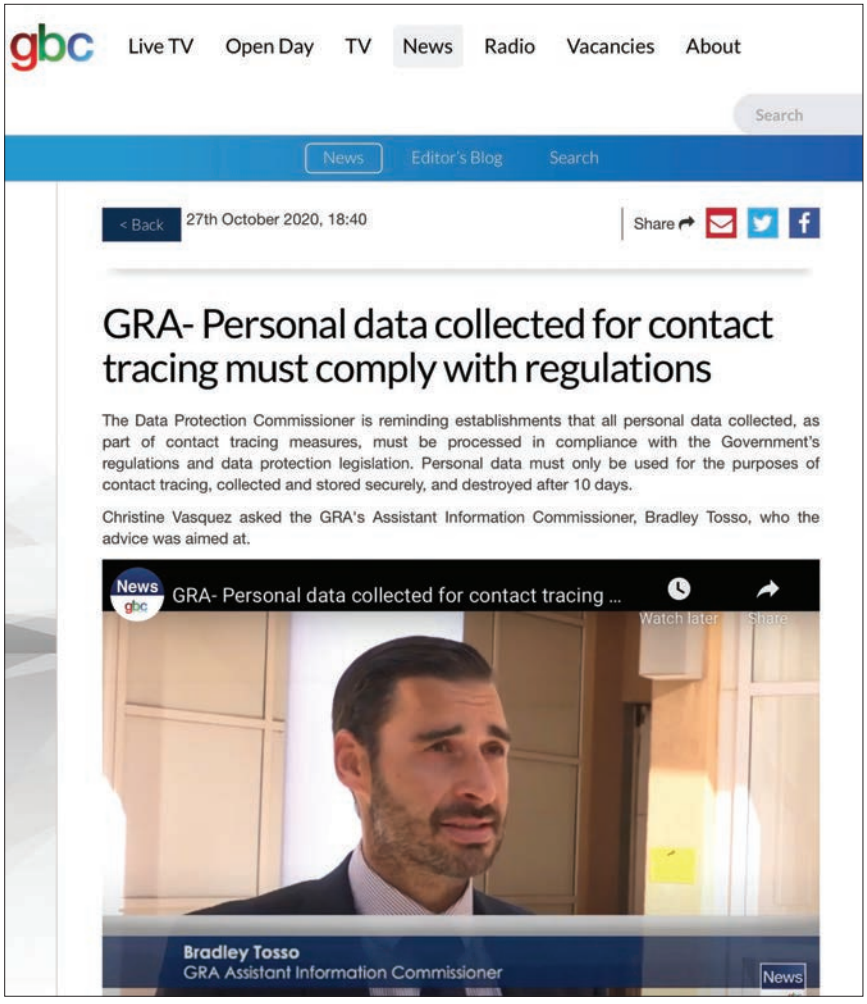
Data Protection and COVID-19 television and radio interviews (15th April 2020 and 27th October 2020)

The Gibraltar Broadcasting Cooperation ("GBC") interviewed the Deputy Head of the Information Rights Division of the GRA on radio and television in relation to data protection in the COVID-19 climate.

The interview dealt with: the added strain experienced by businesses adopting remote working and the data protection concerns that this may pose; the potential for personal data to be compromised in the remote working environment; the potential for an increased risk of cybercrime due to the increased use of online resources; and the need to ensure the collection and processing of personal data remain limited to what is absolutely necessary.

One of the requirements introduced by the Government during the COVID-19 pandemic was that certain establishments have had to implement new measures which include the processing of personal data of customers and visitors. This was part of the contact tracing scheme introduced to fight the pandemic.

Following a press release on 26th October 2020, a further television and radio interview was conducted between GBC and the AIC in relation to contact tracing efforts. Within the interview, the AIC reminded establishments that all personal data collected, as part of contact tracing measures, must be processed in compliance with the Government's regulations and data protection legislation.



• Social Media

Social media platforms form part of the Division's public engagement strategy. 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:

a) Data Protection and COVID-19 (Social Media Post Campaign)

Six-week campaign which ran between April and May 2020 on the unprecedented challenges faced by many because of the COVID-19 pandemic.

b) Privacy Awareness School Survey (2019-20) (Social Media Post Campaign)

Ten-week campaign that commenced in July 2020 highlighting the key findings from the two Privacy Awareness School Surveys carried out in schools in Gibraltar during the 2019/20 academic year.

c) CCTV and GDPR Compliance (Video).

The video highlights the importance of compliance with data protection legislation when processing personal data via CCTV systems.

d) Brexit FAQ (Social Media Post Campaign)

Ten-week campaign addressing key questions relating to Brexit and its impact on data protection law in Gibraltar.

e) Brexit (video)

The video highlights the impact of Brexit on data protection law in Gibraltar.

f) Video Conferencing Applications (video)

The video provides information to individuals and organisations on the importance of protecting personal data and privacy when using VCAs.

g) Individuals Rights under the Gibraltar GDPR (Infographics and videos)

In celebration of Data Protection Day, celebrated every 28th January, an eight-week long campaign titled "The Rights of Individuals under the Gibraltar GDPR" was launched.

h) Ad-hoc posts

The ad-hoc posts vary from specific guidance on certain topics (e.g., Contact tracing), 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.

i) 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 where applicable. These can be found on the GRA's website.

j) 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, including the publication of guidance notes and any additions to the GRA's website. Those wishing to subscribe can email dpsubscribe@gra.gi.

k) GDPR Awareness Day

25th May 2020 marked the end of the second year since the coming into force of the EU GDPR. To commemorate the EU GDPR's second anniversary, the Commissioner released a two-minute video, highlighting changes brought about by the EU GDPR, which is available on the GRA's website.

l) Data Protection Day

Celebrated internationally every 28th January, Data Protection Day commemorates the importance of privacy and data protection. This year the Division launched an eight-week long campaign titled "The Rights of Individuals under the Gibraltar GDPR", including a Guidance Note, a set of infographics, and a collection of short videos, which are available on the GRA's website.

m) Awareness Through Education

With an increasing use of technology and social media amongst younger generations, the Division engages with the demographic to educate them on data protection and their privacy rights. The Division operates a campaign with schools where they interact with school goers; the Division promotes the responsible use of digital technology from a personal data perspective, encouraging students to make informed decisions about the opportunities, but equally about the risks, associated with the same.

The Division delivered presentations to Year 7, 9 and 11 students during the second half of 2020. Due to COVID-19 restrictions, the format of presentations was amended to have the Division delivering a socially distanced presentation to one class, with the remainder of the year-group watching through live feeds from separate classrooms.

In conjunction with the school presentations, and following suit from previous years, the results from the Division's Privacy Awareness School Surveys ("the Surveys") conducted during the 2019/2020 academic year, were published during the reporting period.

Notably, two Surveys were carried out rather than one, as was the case in previous years. As usual, Year 7, 9 and 11 students were surveyed. However, it was decided to also survey Year 5 students for the first time. The reasons for this were two-fold: firstly, due to the education system change in which Year 7 students became secondary school students, this resulting in the survey excluding middle school students for the first time; and secondly, due to the use of digital technology from an increasingly younger age. It was decided to survey Year 5 students to keep in line with the 2-year gap i.e., 5, 7, 9 and 11. A

total of 1421 students (725 males and 696 females) between the ages of 9 and 16 years took part in the Surveys.

Notably, the Surveys included new questions focussing on online platforms such as YouTube and gaming consoles, an area of concern highlighted in the previous year's report.

A report on the results derived from the Survey was published by the Division in June 2020 ("the Report") and is available on the GRA's website. The key findings can be summarised as follows:

As evident from Figure 4, all Year 7, 9 and 11 students surveyed use Social Networking Sites ("SNS"). (Figure 4)

SNS is used mostly for private messaging and its use grows as students get older.

As reflected in Figure 5, use of privacy controls for students in year 7, 9 and 11 has increased, which is a positive trend. (Figure 5)

Risk to privacy from 'media rich' SNS continues.

The number of Year 7, 9 and 11 students that reveal information about others without their consent has decreased.

The use of security features such as a PIN to protect access to mobile devices continues to increase.

Over a quarter of year 5 students who own a mobile device are unaware of permissions granted to mobile apps, including access to their personal data.

As reflected in Figure 6, younger students seek consent from guardians before installing new apps on mobile devices. (Figure 6)

The combined percentage

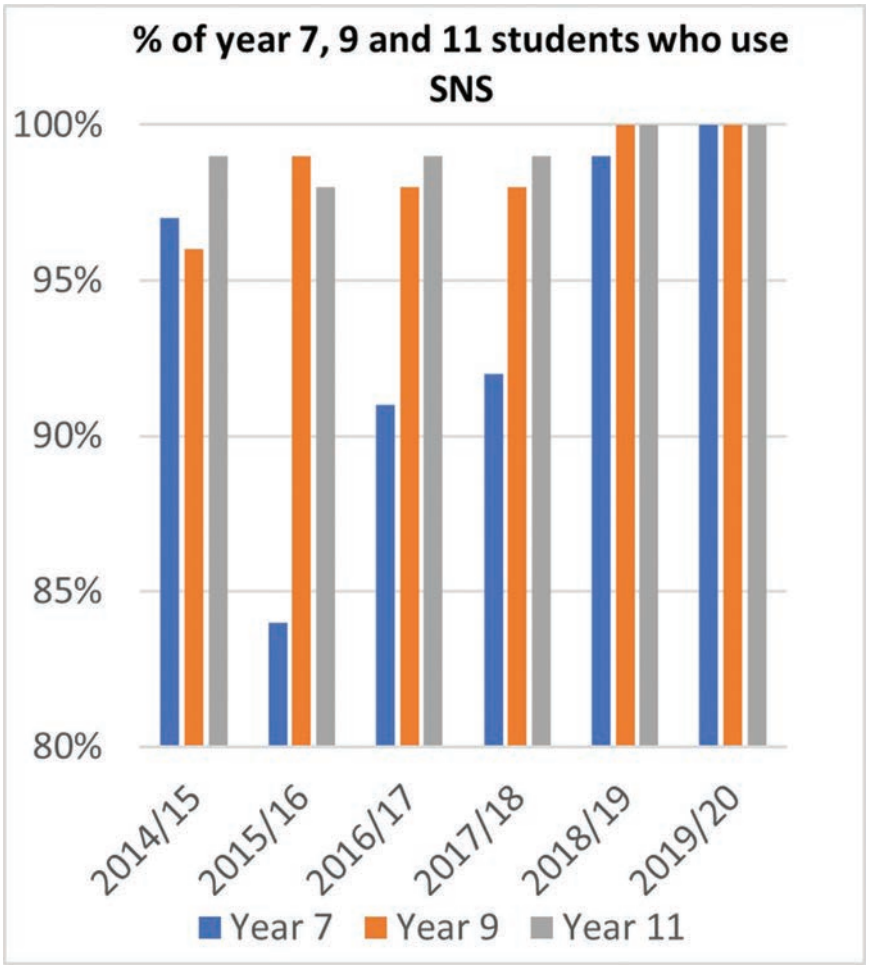


Figure 4

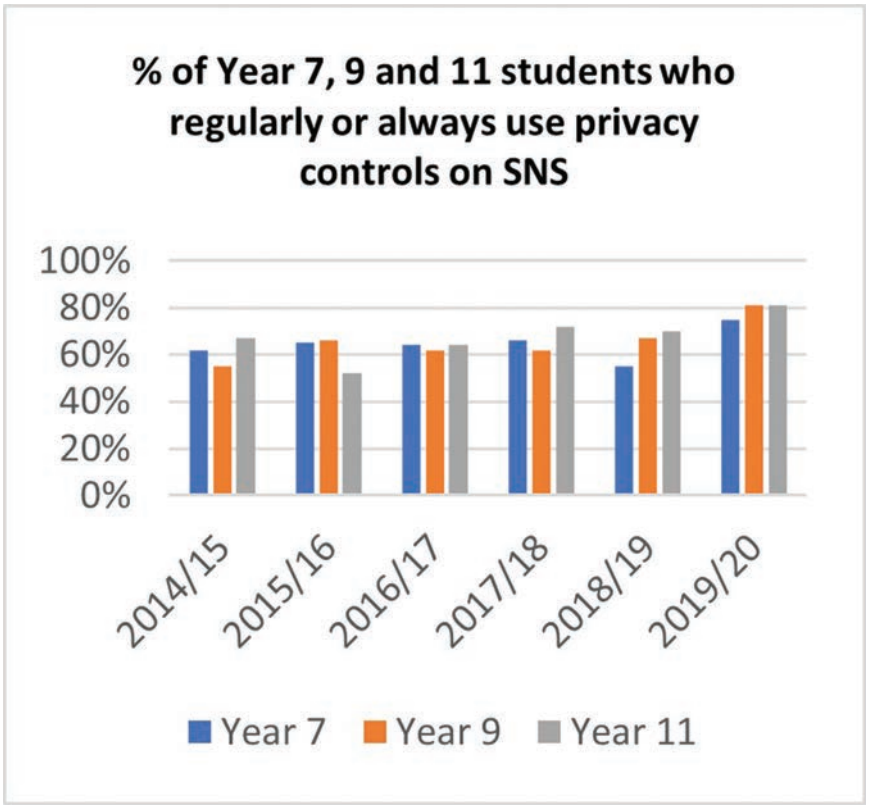


Figure 5

of students who are aware of privacy controls is moderately high. However, approximately a third of students do not use them, which remains an area of concern.

The Division welcomes the slight improvements in privacy practices, which in turn may protect individuals from privacy-related risks.

iv. Freedom of Information

Freedom Of Information ("FOI") is based on the principle that people have a right to know about the activities of public authorities unless there is a good reason for them not to. With this in mind, the Freedom of Information Act 2018 ("FOIA") was passed through Gibraltar Parliament in 2018, this being designed to provide public access to information held by public authorities.

Although enacted, for the FOIA provisions to be enforced, applicable public authorities and/or Government departments need to be expressly added to a Schedule. Following a Parliamentary session held in March 2021, it was confirmed that several departments will be added to the Schedule on 1st June 2021, and that the FOIA will thereby commence as of said date, with the intention being to progressively expand the Government departments included within the Schedule.

Under the FOIA, the GRA, with powers conferred on the Commissioner, has regulatory responsibilities and oversight over 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

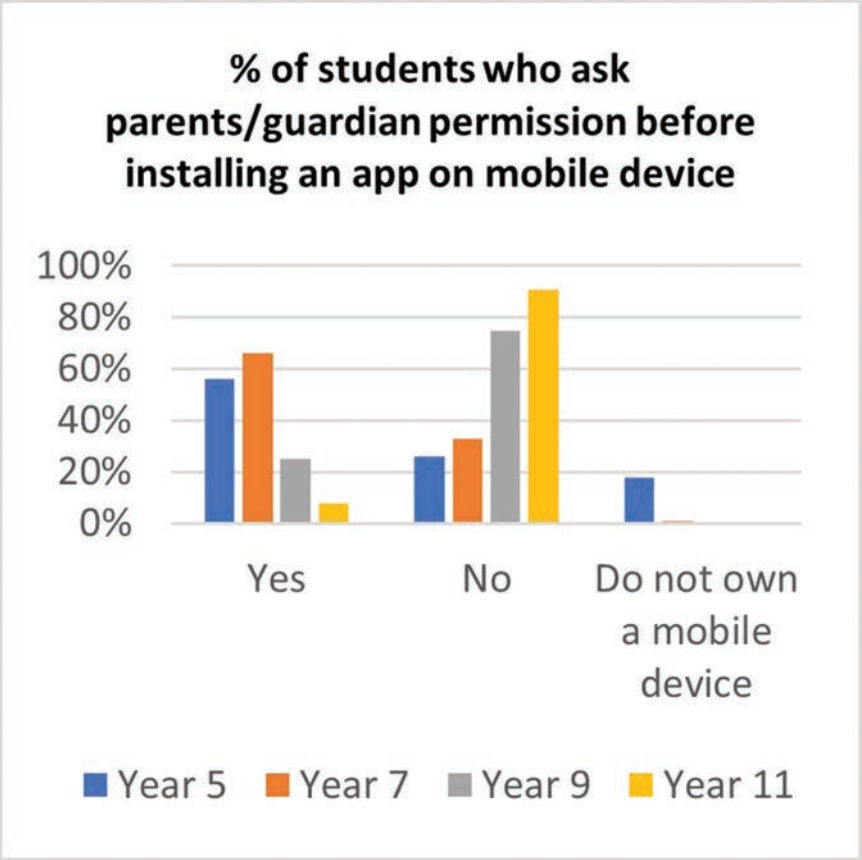


Figure 6

alike, and therefore collaborates with the Government so that the relevant public authorities are delivered a presentation by the Division prior to their addition to the schedule. The presentation aims to provide attendees with practical guidance and assistance on FOI and the requirements of the FOIA.

v. Additional Matters

- Memorandum of Understanding ("MOU") signed between the Data Protection Commissioner and the Gibraltar Gambling Commissioner to Strengthen Cooperation-10th December 2020

Under the terms of the MOU, the parties agreed to the exchange of information as they may consider beneficial in the exercise of their respective regulatory functions. In particular, the MOU is intended to enable both regulators to identify and collaborate on areas of common interest, such as data security. This will assist both parties in their understanding of each other's regulatory roles and responsibilities, whilst also providing them with a better understanding of underlying industry players and the challenges they face.

In a joint statement, the signatories noted that, "with the GRA's commitment to addressing challenges surrounding privacy and data protection in the digital age, and the GGC's mandate, which includes ensuring consistently high standards of operations for Gibraltar gambling licence-holders, this MOU represents a significant and positive step towards ensuring expected standards are met within both regulatory spheres."

BROADCASTING

Introduction

Since the introduction of the Broadcasting Act 2012 ("the Act"), the Broadcasting Division ("the Division") has been responsible for:

- Granting licenses to broadcasters;
- Enforcing the conditions set on licensees;
- Regulating matters on broadcasting standards;
- The issuing of codes of practice; and
- Encouraging the promotion of media literacy.

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

Gibraltar has three 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 currently transmitting from Gibraltar's Digital Terrestrial Television platform is Al-Jazeera Media Network. The third television broadcaster, Music Box Gibraltar, was licensed in 2019 and transmits via cable. They offer international and local music videos 24/7 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.

On 1st September 2020, the GRA issued an Audiovisual Media Service Licence to GibFibre Ltd for their subscription-based video-on-demand service.

The GRA must report that 'Rock Radio' is no longer a licensed radio broadcaster. The radio station ceased its transmission in early 2020 and have not renewed their radio licence.

International Participation

Due to the COVID-19 pandemic, all travel was suspended which meant that the Division could not participate in the usual conferences, but these were replaced by webinars and virtual workshops. Below are some of the main webinars and meetings that took place throughout the reporting period and which the Division virtually attended and participated in.

i. International Institute of Communications Webinar on Big Data, Pluralism and Fake News, 14th July 2020

The webinar focused on the findings of the most recent initiatives throughout Europe, including the Big Data survey conducted jointly by the Italian Telecommunications Authority, the Competition Authority and the Data Protection Authority. This cross-regulator cooperation provided three different and complementary perspectives: examining the changes resulting from Big Data on users, the companies that utilise it, and the markets.

ii. Association of Commercial Television in Europe (ACT) "EU digital policies & TV" webinar – 21st September 2020

This webinar was a great opportunity to hear the perspective of broadcasters on the key issues for the European Union's Digital Services Act, as well as issues relating to AI ("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 and effective framework.

iii. International Institute of Communications UK - Chapter Webinar, 3rd November 2020

The webinar focused on the major changes in the UK

framework for content regulation, namely the revised Audiovisual Media Services Directive ("AVMSD") that extended regulation to video sharing platforms. Additionally, as a consequence of Brexit, the UK would require changes to the 'Country of Origin' principle that applies to traditional broadcasting.

The workshop looked at the scope for other countries with similar democratic traditions to find common ground. This virtual meeting was invaluable to the development of best practices in the regulation of broadcasting standards.

iv. European Platform for Regulatory Authorities ("EPRA") Digital Plenary, 22nd January 2021

The session allowed all members to be updated with the work being carried out by EPRA especially relating to the revised AVMSD.

One major change introduced by the revised AVMSD, is the regulation of video sharing platforms ("VSP"). A report was presented to all members highlighting concerns relating to online platform activities and how different European countries had transposed these requirements. The report also illustrated how regulators were developing best practices and expertise in the coordination and oversight of media literacy activity. Additionally, the report also highlighted how the obligations of the VSP, with regards to media literacy, could be best understood and applied.

Regulatory Matters

The following is an outline of the regulatory matters which the Division has been involved with during the reporting period 2020/2021.

i. Measured Activity

a) Inbound Enquiries

The Division has received queries on matters relating to the GRA's code of practice on Audiovisual Commercial Communications Code ("ACCC") and Programme Standards Code ("PSC") mostly from broadcasters.

Additionally, the Division also 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. This year, due to the lockdown restrictions and staff having to work from home, the usual monitoring exercise of broadcasting content has not been possible. Instead, a more ad-hoc form of monitoring has been carried out.

c) Complaints

The GRA received two complaints from the general public via the online complaints form. However, after having considered these carefully, the GRA did not find any breaches of any of the GRA's codes of practice.

ii. Amendments to the Broadcasting Act 2012

On 19th September 2020, the Act was amended to implement the amendments made to the AVMSD by Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018.

The amendments to the Act were required, given that the audiovisual media services market had evolved significantly and rapidly due to the ongoing convergence of television and internet services. Technical developments have allowed for new types of services and user experiences and, as such, viewing habits, particularly those of younger generations, have changed. In this regard, new types of content, such as video clips or user-generated content, have gained an increasing importance and new players, including providers of video-on-demand services and video-sharing platforms, are now well-established.

Therefore, this convergence of media required an updated legal framework in order to reflect developments in the market and to achieve a balance between access to online content services, consumer protection and competitiveness.

The Act goes further than the requirements of the Directives in that it also covers audio transmissions, especially with regards to commercial communications albeit in a less onerous manner.

iii. Media Literacy Awareness Campaign – Schools

The Division began its '2020 Media Literacy Awareness Campaign' in earnest, however, the COVID-19 pandemic meant that the campaign had to be put on hold.

The latter part of 2020 saw a resumption of the campaign, and the Division held a virtual presentation for students aged 14-15. Despite the difficulties associated with video conferencing, the presentation was very successful, and the feedback received was extremely positive. The topic for the presentation was on media messages and how commercial communications, in the form of television advertising and product placement, can influence how we perceive things on television.

In early March 2021, the Division presented another virtual presentation for older students aged 17-18 on the topic of 'Fake News'. The main focus was on the dangers of misinformation and disinformation with a major emphasis on fake news surrounding the current global pandemic, specifically in relation to the different vaccines available.

iv. General Awareness Campaign

The Division has continued 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 has been proactive in its approach to informing the public about the work undertaken and encourages the local community to use the complaints procedure scheme in the event that 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 view that by informing and raising awareness about its published guidance, also via social media, it is possible to educate the general public about what should be expected from local broadcasting services.

v. Referendum on Abortion

The original date set for the referendum on abortion was Thursday 19th March 2020, however, the Government took the decision to delay the referendum due to the recommended restrictions on movement of people.

On 11th March 2021, the Government announced that the abortion referendum would take place on Thursday 24th June 2021. At the time of writing this, the Division has amended the existing standards in the code of practice, as required by paragraph 1(1) of Schedule 3 of the Act, with the new date and timeline for the referendum. The code is specific to GBC and applies to the content of programmes included in the television and radio services in Gibraltar relating to the referendum.

vi. Revenue Collected

During the period 2020/2021, and in accordance with the provisions of the Broadcasting (Licensing) Regulations 2015, the GRA collected a total of £11,100 in respect of the following Licences:

FM Radio Licence	£10,000
Audiovisual Media Service Licence	£1,100

POSTAL SERVICES

Introduction

The Postal Services Division ("the Division") of the GRA has the responsibility of regulating the Postal Sector in Gibraltar in accordance with the Post Office Act ("the Act") and the Postal Services (Authorisation) Regulations 2012 ("the Regulations").

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 in Gibraltar.

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. This must be achieved whilst balancing the RGPO's right and freedom to provide competitive services in a liberalised postal market.

The GRA also has a legal duty to ensure that the USP complies with the obligations arising from the Act, as well as any regulatory measures imposed by the GRA relating to the provision of the universal service. This often includes issuing guidance and directions in respect of accounting procedures, monitoring of operational developments, setting quality standards, and, more importantly, monitoring performance against these standards with a view of improving quality of service for consumers in Gibraltar.

The GRA also issues general guidance and recommendations to all postal service providers in order to ensure compliance with the requirements of the Act and the rights of users are upheld.

Regulatory Matters

The following is an outline of the regulatory matters carried out by the Division for the period 2020/21.

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 for all users.

The RGPO's current designation sets out a number of obligations which the RGPO must comply with in order to ensure good-quality postal services of a recognised standard are available both locally and internationally and that these meet a variety of consumer needs.

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. As the designated USP, the RGPO must provide the following minimum services:

- the clearance, sorting, transport and distribution of letters up to 2kgs;
- the clearance, sorting, transport and distribution of parcels up to 20kgs;
- services for registered items;
- services for insured items; and
- free services, for blind or partially sighted persons (up to 7kg).

ii. Universal Service public consultation

In 2013, the GRA designated the RGPO as the USP for a period of 7 years ending on 17th July 2020. Consequently, during this reporting period, the GRA was required to revisit the universal service designation and carry out a new public consultation. In doing so, the GRA is required to take such measures as it considers necessary to ensure that the conditions under which universal services are assigned, are based on the principles of transparency, non-discrimination, and proportionality, to guarantee continuity in the provision of universal service.

The GRA had initially intended to carry out the process of a public consultation in February 2020, however, because of the COVID-19 pandemic, the GRA determined that proceeding with the public consultation during this period of uncertainty, may have proved an unproductive endeavour.

The GRA, therefore, published Notice No. P01/2020 "Designation of Universal Service Provider" on 1st of July 2020, which extended the RGPO's existing designation by a period of no longer than one calendar month to ensure that

a suitable and productive public consultation process could be carried out.

On 1st July 2020, the GRA also published Public Consultation P02/20, in which it invited comments from all local postal service providers and interested parties to questions relating to all aspects of universal service.

The specific universal service obligations consulted upon within the consultation document were as follows:

- 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;
- Local and cross-border Mail; and
- Universal Service Designation Period.

By the close of the designation period, the GRA only received comments from the RGPO.

iii. Designation of Universal Service Provider

When considering responses to the public consultation and ultimately designating a USP, the GRA considers factors such as market share, size of the network, experience, and ability to provide universal service.

In response to the GRA's public consultation, the RGPO submitted a detailed long term business plan in support of their request for a designation period of seven years in respect of the provision of universal service. This request highlighted the numerous long-term investments made by the RGPO to improve both its local and international quality of service for ensuring the efficient and reliable provision of universal services. The RGPO also underlined the need to develop long-term strategies and establish strong business relationships with its international partners to improve its service provision.

The GRA was of the view that, given the RGPO's existing infrastructure, together with its extensive experience, its long-term development plan showed a commitment to the provision of an effective and efficient universal service. The GRA also considered the fact that none of the alternative postal operators appeared to have expressed an interest in providing the universal service or elements thereof, and as such, determined that a designation period of seven years would be reasonable and justified given the circumstances.

On 7th August 2020, the GRA published Decision Notice P04/20, which designated the RGPO as USP for all elements of universal service for a period of seven years ending on 6th August 2027.

RGPO – Individual Licence

In order to provide universal services, the RGPO requires an individual licence. Given that the RGPO had been designated as USP for an additional seven years, the Division took the opportunity to revise both the format and content of the RGPO's existing individual licence to bring it in line with the recent changes and updates established via the public consultation process.

On 7th August 2020, the GRA issued the RGPO with a new revised individual licence which runs concurrently with the RGPO's recent designation as USP until 6th August 2027. It is important to note, however, that unlike the RGPO's designation, which imposes the universal service obligations, the purpose of the individual licence is to ultimately safeguard the provision of universal services and guarantee compliance with its essential requirements.

Among other items, the individual licence ensures that the universal services evolve to meet the needs of consumers, that they are made available without any form of discrimination and are not interrupted. The 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.

iv. Essential Requirements

In accordance with the Act, the GRA may impose "essential requirements" on the supply of postal services in Gibraltar.

These requirements shall be based on the following non-economic reasons –

a) the confidentiality of correspondence;

b) the security of the network

as regards the transport of dangerous goods.

Further to the GRA's public consultation process carried out in respect of universal service, the Division also carried out a review of the existing "essential requirements" initially published in 2013. The Division made several important amendments not only to streamline and restructure the document but also to ensure that it was up to date and in line with current legislative requirements.

Consequently, the Division published Notice No. P03/2020 on 14th July 2020, which imposed a number of essential requirements on all postal service providers in Gibraltar.

This document ensures that all postal service providers in Gibraltar establish and apply adequate procedures that may be reasonably 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 place an obligation on all postal service providers to keep their procedures under regular review to ensure that these matters are sufficiently adequate and that the confidentiality of any correspondence or general mail sent is ultimately maintained.

The Division has also published guidance material in the form of "Guidelines for 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 when it comes to maintaining the confidentiality of correspondence.

v. Quality of Service Requirements - Local Mail

In accordance with the provisions of Section 40(1) of the Act, the GRA has a duty to set quality standards for local mail services to ensure the provision of a high quality universal postal service. In determining this local quality target and after consultation with the RGPO, the GRA must also consider Gibraltar's unique geographical situation and relatively small size and consider how this would relate to a given operator in respect of the collection, sorting, and subsequent delivery of mail.

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).

vi. Performance Monitoring - Gibraltar Public Services Ombudsman

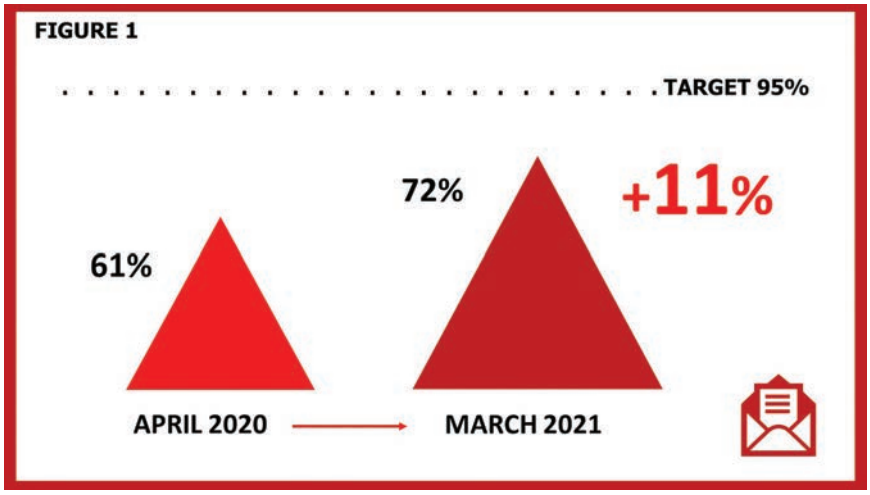
Section 4N(4) of the Act requires independent performance monitoring of the established quality standards to be carried out. To date, this task has been carried out successfully by the Gibraltar Public Services Ombudsman ("the GPSO") who, with the approval of the GRA, has acted as the independent body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

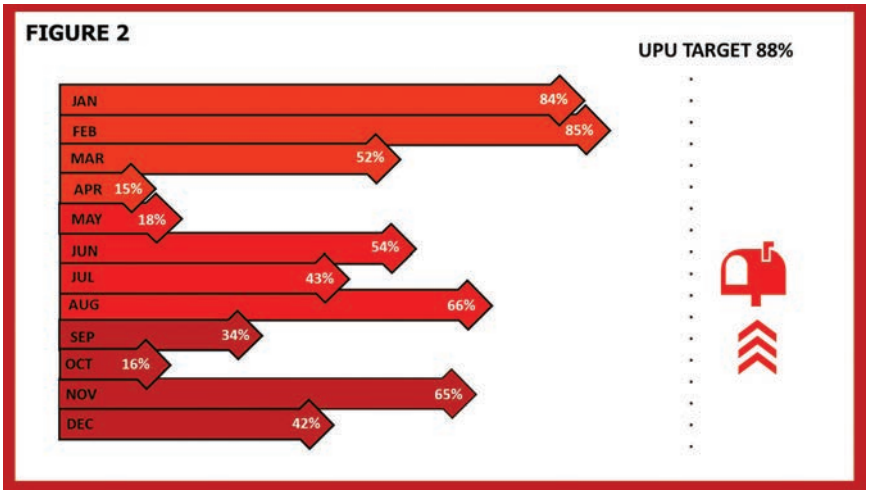
The GPSO fulfils this task by sending out numerous test letters to a broad spectrum of members of the public who then report receipt of these letters. This ensures that the full local end-to-end network, which involves the collection of mail locally from various access points and subsequent processing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

The GRA often uses the statistical information generated to assist the RGPO in making informed decisions and operational improvements that ultimately assist them in meeting the required quality of service standard.

During the previous year as well as the current year under review, the RGPO has raised numerous concerns over the accuracy and reliability of the performance statistics provided, due to the potential for error, inherent in the current monitoring system. The RGPO explained that this may be a contributing factor to the low performance results for next day delivery within Gibraltar. In order to mitigate this potential issue, the GRA advised the RGPO to meet with the GPSO and tackle this directly by revising the manual performance monitoring procedures currently in place.

The GPSO and RGPO, in consultation with the GRA, are also exploring the feasibility of incorporating the use of automated systems that would





address potential inadequacies and enhance the overall accuracy of all performance results moving forward.

Figure 1 is an illustration of the full end to end delivery standards of local mail as monitored by the GPSO. It is clear from Figure 1 that the RGPO has fallen short of meeting the required target of 95% for next day delivery of local mail within Gibraltar, with a performance result of 61% for next day delivery in April 2020 and by comparison 72% in March 2021. This represents an overall increase of 11% in respect of next day delivery standards during the period under review. The RGPO has informed the GRA that this was largely due to the ongoing COVID-19 pandemic as well as other contributing factors. The GRA will therefore continue to work closely with the RGPO to make the necessary operational and regulatory improvements with a view of satisfying the required performance targets.

vii. International Inbound Delivery within Gibraltar

The RGPO as the USP for Gibraltar, has a duty to monitor its Quality of Service. The Global Monitoring System ("GMS") is a state-of-the-art independent performance measurement system managed by the Universal Postal Union ("the UPU") and its primary objective is to provide participating countries with accurate, high-quality operational results regarding the performance of letter mail.

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.

The primary focus, in this case, is on the measurement of the performance of the destination country. In other words, it is in essence a "last-mile" measurement rather than a full "end-to-end" measurement. It is vital, however, not to confuse this system, which only monitors the delivery times of inbound international mail once it arrives in the sorting office, with the system adopted by the GPSO which monitors the full local end-to-end network in Gibraltar.

The performance results generated by the GMS are linked to terminal dues payments, which are essentially the payment rates in mail exchanges between countries and therefore affects remuneration between postal operators, based on performance. The local delivery target established by the UPU for this purpose is 88% (D+1).

Figure 2 illustrates the RGPO's performance results in respect of next day delivery of international inbound mail within Gibraltar during the period under review.

However, due to the ongoing COVID-19 pandemic, the GMS have suspended terminal dues payments owing to exceptional circumstances which will have undoubtedly harmed the quality of service of all operators worldwide. The slide above illustrates the significant and adverse impact the pandemic has

had on the RGPO's performance.

viii. COVID-19 - Impact on Local Quality of Service

2020 has undoubtedly been a trying year for all, especially the RGPO who have experienced their most challenging year in recent history. As the designated USP, the RGPO plays a key role in Gibraltar's infrastructure and has taken all the necessary steps to fulfil its universal service obligations by maintaining and operating a postal service to the community throughout the entire ongoing COVID-19 pandemic, including both public lockdowns experienced to date.

During the period under review, the RGPO has been able to offer a continuous service for all types of mail and parcels to the 192 UPU member countries worldwide, albeit with some delays due to the reduction and cancellation of flights worldwide and ongoing COVID-19 measures.

The disruption to daily flights and the sudden increase in online shopping meant that a large weekly volume of international mail was arriving at the RGPO sorting office, adding to a reduced workforce (as a result of either self-isolation or testing positive with COVID-19), which meant that the RGPO was unable to guarantee a next day delivery service and instead adopted a 2-day, or more, delivery service when necessary.

The unusually low performance results reported by both the GPSO, as well as the GMS, are not to be totally unexpected when considering the exceptional circumstances the workforce has encountered this reporting period. In such conditions, therefore, the GRA decided that no regulatory intervention was warranted.

ix. COVID-19 - Measures Adopted by the RGPO

In addition to the numerous arrangements made by the RGPO to ensure the continuity of the universal service, further contingency plans were put in place for the delivery of mail overland in the event that local flights to Gibraltar from the UK did not offer sufficient capacity.

The local delivery of mail and collection of pillar boxes 6 days a week has continued without disruption throughout the pandemic. However, in order to reduce the number of postal workers in the mail centre at any given time, the RGPO introduced different working shifts, staggered entries, and various safety measures to mitigate any risk and ultimately fulfil its universal service obligation by ensuring the continuity of services.

The RGPO also introduced certain new services in order to enhance accessibility for members of the public as follows:

- Online sales of stamps with free next day delivery within Gibraltar;
- Online payment for postal services, for example PO Box rentals;
- 7 new pillar boxes installed around Gibraltar to make the postal service more accessible (38 total number of pillar boxes in Gibraltar);
- Payment of import duty online to allow customers the option to receive their parcels at home instead of collecting from the mail centre;
- Free delivery to the over 70s and those in self isolation;
- Delivery of GHA cards and prescriptions; and
- Assisting with the supply of essential items to the vulnerable, etc.

x. COVID-19 - Challenges and Opportunities for the Postal Industry

The COVID-19 pandemic is an unprecedented crisis that has caused a dramatic economic impact, not just on postal operators, but in all industries.

One of the primary consequences of the pandemic has been its widespread disruption to international supply chains due to the strict constraints posed on international transport, particularly on-air traffic. Postal operators throughout the world were left with no option but to adopt important safety and logistical measures in addition to public health advice to mitigate the impacts of the disruptions in the global supply chain and ensure the provision of basic universal services.

The pandemic has created both challenges and opportunities alike for the postal industry. On one hand, it has accelerated the existing trend towards the decline of letters and growth of e-commerce parcels, due to an increased number of people shopping from home which will most likely have led to an increase in the cost of processing and delivering mail as well as loss of revenue generated by letter mail. Moreover, this sudden unprecedented rate of growth has led to many additional problems for postal operators worldwide including mail centres being overwhelmed, service performance declining and significant financial loss.

On the other hand, the pandemic has provided an opportunity for the postal industry to innovate and develop new ideas, strategies, and business plans. Both consumers and businesses alike have also become more

dependent on postal service providers during this difficult time, especially for their role in delivering medical supplies and other essential goods.

xi. Complaints and Dispute Resolution

All postal service providers in Gibraltar are required to have procedures in place for dealing with complaints. 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 services offered in Gibraltar by authorised postal service providers.

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

Figure 3 represents a breakdown of the number of complaints and enquiries received by the RGPO during this reporting period and these figures are updated and published regularly on the RGPO's website.

As illustrated from the statistics provided, the number of complaints and enquiries generally increased steadily throughout the year, from 54 in April 2020, reaching a peak of 205 in December 2020, which was expected given the usual Christmas peak which was further compounded by COVID-19. The figures then began to fall considerably to just 20 in March 2021, which was expected as the impact of the pandemic gradually decreased and service performance returned to normality.

The RGPO also informed the GRA that most if not all items that were the subject of these complaints/enquiries eventually arrived albeit with significant delivery delays due to the difference in flight numbers, international logistic issues, flight disruptions and closures of frontiers worldwide. The RGPO also reported that the demand placed on their customer services team had been unprecedented, owing to the fact that they had simultaneously dealt with hundreds of requests from members of the public who were over 70 years of age, many with underlying health conditions requesting that their parcels be delivered due to lockdown restrictions which prevented them from collecting these packages.

Figure 4 is an illustration of the number of complaints and enquiries handled by the RGPO and more specifically how many of these related to speed and tracking information of local and international mail. Figure 4 clearly shows that during the period under review, 93% of complaints and enquiries were in relation to delivery times and tracking information. This statistic was also unusually high as a direct result of the pandemic.

During the 2020/21 period, the GRA dealt with numerous enquiries and complaints, many of which were in respect of COVID-19 related issues and the RGPO's subsequent and unavoidable changes in quality of service, as well as the

FIGURE 3

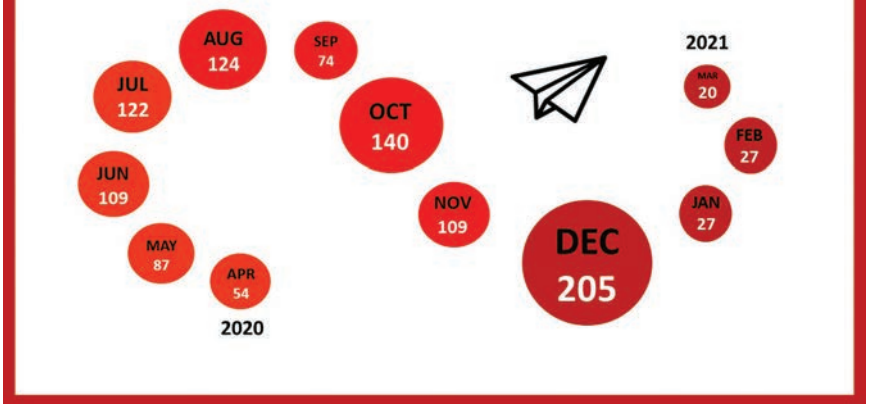
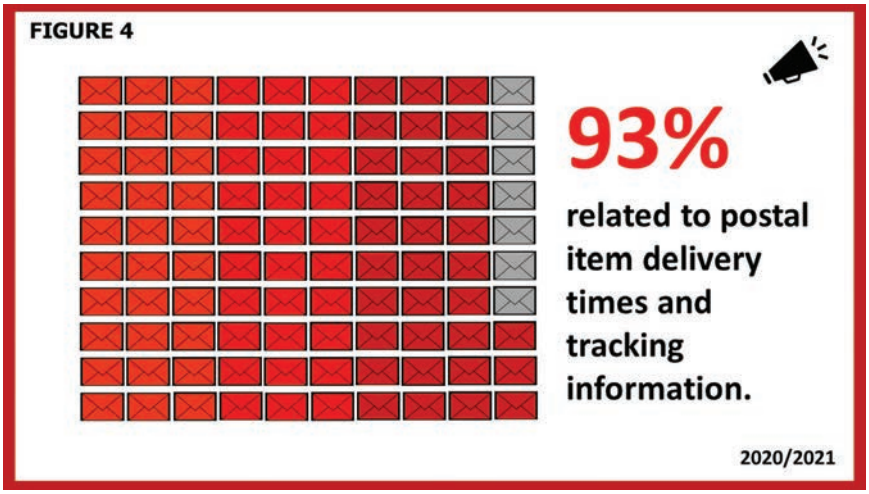


FIGURE 4



procedures adopted by the RGPO in respect of the delivery and/or collection of items during the pandemic. However, the GRA was able to offer advice, information, and guidance to members of the public and these queries were eventually satisfactorily resolved, without the GRA having to embark upon any investigation. When dealing with these enquiries and complaints, the GRA exercised its discretion and afforded the RGPO a reasonable degree of flexibility given the extraordinary circumstances.

xii. Postal Services and Delivery Services

The "traditional" postal services market has evolved tremendously with the emergence of ever-changing business models, new hybrid services as well as various delivery services in Gibraltar that may or may not be captured by the provisions of the Act. In light of this and in addition to the various pandemic related issues handled by the Division, a considerable number of enquiries were received, mainly relating to the licensing of various "delivery services" often provided by freight forwarding companies and whether or not these types of services should be deemed a "postal service" and therefore, be subject to the provisions of the Act.

The Division liaised closely with the Office of Fair Trading ("the OFT") who, among other things, sought further clarity from the GRA on the types of services that would be deemed "postal services" and those that would not. This would serve the OFT when advising the public and to identify the various business categories of services that do not fall under the regulatory remit of the GRA, whilst observing specific exemptions for those that do. The discussions between the OFT and the Division also served to provide some context and direction resulting in a joint agreement to issue public advice for members of the public to either obtain a business license from the OFT, or a General Authorisation from the GRA, depending on the type of service they seek to provide.

During the period under review, the GRA took the view that some delivery services currently offered locally, may not fall within the regulatory remit of the GRA as they lacked the constituent features to be deemed a "postal service" (the service does not ship items of correspondence, or other general mail without commercial value to customers worldwide), as defined in the Act. Additionally, a "postal service" encompasses various elements that when combined, provide a full end-to-end service and it is the inclusive nature that would constitute a postal, or courier service in the traditional sense. Simply providing one single element of these, as is often the case with some delivery services, therefore, may not fall under the provisions of the Act.

xiii. Social Media

The Division uses social media platforms to ensure consumers are provided up to date information or guidance on numerous topics of interest which are relevant at the time.

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

- Addressing properly;
- Articles for the Blind;
- Sale of Stamps;
- Redirection of Mail; and
- COVID-19 related matters and possible delays.

xiv. The Register

The Postal Service (Authorisation) Regulations 2012 requires 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 2020/21 period and in accordance with the provisions of the Act, the total amount collected by the GRA in respect of General Authorisations was £1,500.

The total amount collected by the GRA in respect of the Individual Licence issued to the RGPO was £5,000.

This has brought the total revenue for Individual Licences and General Authorisations for 2020/21 period to £6,500.

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 to be known as the Gibraltar Authority for Standards in Higher Education and also to designate a regulatory authority to be known as the Gibraltar Higher Education Commission.

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 Gibraltar Higher Education Commission, and the Gibraltar Authority for Standards in Higher Education.

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

Regulatory Matters

i. Role and responsibilities of the Higher Education Regulation Division

In accordance with the Act, the Gibraltar Authority for Standards in Higher Education 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 the 1st June 2018, the Gibraltar Higher Education Commission issued a Memorandum of Regulation ("MoR") to the University setting out how:-

a) the quality and standards of education in the University shall be monitored;

b) compliance by the University with its functions, duties and obligations under the Act shall be monitored;

c) the use by the University of its funds including any public funds provided to it shall be monitored;

d) other aspects of the University's performance are 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 Gibraltar Higher Education Commission and the Gibraltar Authority for Standards in Higher Education. However, the Regulations also included and set out a memorandum that the Division needs to review from time to time in consultation with the University.

The Division has been working and liaising with the University to identify its governance structure and its development plans. The Division has been consulting with UK experts, and the memorandum 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 Gibraltar Higher Education Commission, 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 Gibraltar Authority for Standards in Higher Education, 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 Gibraltar Authority for Standards in Higher Education, 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 Gibraltar University Regulatory Commission and the Gibraltar Authority for Standards in Higher Education.

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 CEO 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. A further meeting is scheduled to take place later in May 2021 to review the University's documents submitted in December 2020 in compliance with the requirements of the MoR. The UAB will then be able to provide the GRA CEO with an analysis of the Division's annual risk assessment of the University.

The Division will meet with the University to discuss the annual risk assessment and any areas of concern once this analysis 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. During this reporting year, the GRA has had several meetings with the University. In October 2020, the GRA also met with the University's Chairman of the Audit Committee to gain an insight into the work and responsibilities of the Audit Committee.

iv. Graduations

The University's first graduation ceremony was held in December 2020, during which 20 taught programme students received their awards after successfully completing their studies, and a PhD student was awarded the degree of Doctor of Philosophy. The ceremony was held at the Europa Point Campus and was split into three smaller ceremonies to comply with Public Health Covid-19 recommendations. As family and friends could not attend, 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 has developed all of its degree courses in line with UK quality standards and the University applied to the UK's Quality Assurance Agency ("QAA") for Higher Education to undergo an International Quality Review ("IQR"). In November 2019, the University underwent the initial "scoping visit" from the QAA, which resulted in a favourable report and the IRQ has been planned for December 2021.

In preparation for the IRQ and to further ensure that the quality of all courses continue to meet the highest standards, the University has appointed an Academic Quality and Learning Manager.

The IQR consists of five key stages including analysis and evaluation of the University's own processes, taking part in an external review by QAA's peer reviewers and follow-up action planning.

A successful review would mean that the University of Gibraltar would be officially accredited by the QAA. Furthermore, the University would be able to use the IQR accreditation quality mark on their website and marketing materials, which would indicate that they are accredited against internationally recognised standards.

This accreditation would provide further assurance to students and parents that the programmes offered meet international academic standards.

University of Gibraltar Higher Education Courses 2020 -2021

Postgraduate

MSc in Marine Science and Climate Change

Masters of Business Administration

Photograph provided by the University of Gibraltar

Photograph provided by the University of Gibraltar

Masters in Leadership and Management

Postgraduate Certificate in Education (PGCE)

Undergraduate

Bachelor of Business Administration

BSc Nursing

PhD

There are 14 students undergoing research programmes.

Photograph provided by the University of Gibraltar

CYBER SECURITY COMPLIANCE

Introduction

In 2018, the Civil Contingencies Act 2007 (the "Act") 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, to build cooperation and promote a culture of risk management and incident reporting among Member States.

In Part 7 of the Act, the GRA was designated as the single point of contact ("SPOC") for Gibraltar. The SPOC's role largely concerns cross-border co-operation where incidents affect more than one Member State. The UK's departure from the European Union (EU) has meant that even though the obligations to report to the EU have been removed, the UK has set-up a framework within which to continue to participate in the work of the European Network and Information Security Agency (ENISA) and continue to co-operate with Member States of the EU.

The Role of the Competent Authority

The GRA was also designated in Part 7 of the Act as the competent authority for the security of network and information systems in respect of operators of essential services ("OES") and Digital Service Providers ("DSP"). The GRA formed the Cyber Security Compliance Division (the "Division") with all the following 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 OES or DSP;
f) Drawing up Codes of Practice;
g) Recording and reporting incident notifications; and
h) Conducting or organising inspections.

International Participation

i. CYBERUK Conference 2020

The CYBERUK conference which is the UK government's flagship cyber security event, was scheduled to be hosted in Cardiff by the National Cyber Security Centre ("NCSC"), however, due to the coronavirus pandemic the conference was postponed. The CYBERUK event will now take place as a virtual event on 11-12 May 2021, and will provide a series of top-level keynotes, interactive panel discussions and solution-based case studies. This event is attended by those with overall responsibility for cyber security in government departments and across central and wider government. There will also be a strong industry presence from across the UK and worldwide.

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.

i. Reporting of Incidents

The designated OES and DSP 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 website and should be submitted as soon as possible but no later than 72 hours after becoming aware of the incident.

The NIS reporting form was designed for major incidents, but it can also be used by OES and DSP or any other related company or body to alert the Division of potential cyber incidents and attacks that may have been mitigated but could potentially have an impact.

ii. Report on Cyber Incidents

The European Cooperation Group ("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 UK's report to the ECG.

The UK considers cybersecurity 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 ("OES")

The Division is required to identify the essential services being provided by network and information systems and 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 originally identified and designated four OES by way of a Notice under section 35(2) of the Act, as providers of essential services. In accordance with section 35(9) of the Act, the biennial review of the different sectors was conducted and an additional OES was identified and designated.

The Act requires an OES to take appropriate and proportionate technical and organisational measures to manage the risks posed and prevent and minimise the impact of incidents affecting the security of their network and information systems. Furthermore, an OES is also required to notify the Division of any incident that may have a significant impact on the provision of an essential service.

iv. Designation of Digital Service Providers ("DSP")

DSP, just like OES, 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. DSP must also notify the Division of any incident having a significant impact on the provision of their digital service. The Division has currently not identified any DSP in Gibraltar that falls within the definitions in the EU NIS Directive but will reassess the digital services once the anticipated changes to the Act, due to Gibraltar's departure from the EU, are completed and enacted.

v. Cyber Assessment Framework

The Act requires an OES to take appropriate and proportionate technical and organisational measures to manage the risks to the security of network and information systems which support the delivery of essential services. The Cyber Assessment Framework ("CAF") encourages OES to meet a set of fourteen NIS cyber security principles written in terms of outcomes.

The CAF is intended as an assessment tool that specifies what needs to be achieved rather than stating exactly what needs to be done. The Division requires all OES to complete

Structure of the Cyber Assessment Framework

Objectives			
A: Managing security risk	B: Protecting against cyber attack	C: Detecting cyber security incidents	D: Minimising the impact of cyber security incidents

Principles							
A1: Governance	A2: Risk management	B1: Service protection policies & processes	B2: Identity & access control	C1: Security monitoring	C2: Proactive security event discovery	D1: Response & recovery planning	D2: Lessons learned
A3: Asset management	A4: Supply chain	B3: Data security	B4: System security				
		B5: Resilient network & systems	B6: Staff awareness & training				

their own risk assessments in order for the CAF to be targeted at the critical systems and the networks providing the essential service.

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 GRA website: https://www.gra.gi/cyber-security-compliance/caf

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 whole range of the most common internet based cyber security threats. On 1st April 2020, IASME became the National Cyber Security Centre's Cyber Essentials Partner, responsible for the delivery of the scheme.

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

For more information on Cyber Essentials Certification, please refer to the IASME website. IASME provides self-assessment questions, online certification options or you can engage with one of the recognised Certification Bodies and they may provide you with more support in the assessment process.

CYBER ESSENTIALS

vii. Liaison with other Bodies

The Division is liaising with all the designated OES 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 (CSIRT) and with Gibraltar law enforcement authorities. Internationally, as the designated SPOC, the Division will continue to liaise with the UK's Government Communications Headquarters (GCHQ) and NCSC for any cross-border issues.

The Division is currently also working with the 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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