



Cabinet Office

Proposal to amend the Privacy and
Electronic Communications (EC
Directive) Regulations 2003
("PECR"), to enable the future
implementation of a national public
emergency alert system

Consultation Document

FINAL VERSION

Executive Summary

What this consultation is about

Communicating during an emergency is crucial. Alerting the public in a quick and effective manner that they are in the vicinity of an emergency and informing them about what action they need to take has an important role in limiting the impact of that emergency. Recognising this, in 2010 the Government committed to evaluate options for an improved public alert system in the UK and this has been investigated by the Cabinet Office.

Research and experience has shown that in addition to being able to issue an emergency alert quickly, it should target those in the area at that time and be capable of reaching people through a number of different channels. This requires a system that can reach persons at risk in a specific location and advise what action they need to take, using the technology people have available and being inclusive as possible to all.

Following a series of trials in 2013¹ it was identified that mobile phones in areas affected by an emergency could be sent alert messages via a Location-Based SMS (text-messaging) system and it is proposed that this should form the basis of a new national alert system.

The Privacy and Electronic Communications (EC Directive) Regulations 2003 (“PECR”) place important restrictions on the mobile network operators’ ability to process specified types of communications data without the consent of their customers. This consultation considers whether PECR should be amended for the specific purpose of enabling the operation of a new Location-Based SMS public alert system for use in the most serious of emergencies. The amendment will allow network operators to send messages on behalf of emergency responders in areas at risk, but not for any other purpose (i.e. information unrelated to a serious emergency). No details of the handsets that have been sent messages or their locations will be passed to the authorities.

We consider that this consultation will be of particular interest to communication service providers and the mobile network operators since they would be directly affected by the changes, together with the Information Commissioner, regulators, and emergency responders. However, it is also recognised that the general public has an interest in emergency alert systems generally and how the authorities and network operators may notify them of serious events that affect them. It has

¹ The Mobile Alerting Trials Final Report; March 2014;
<https://www.gov.uk/government/publications/mobile-alerting-trials-for-public-emergencies>

therefore been decided to consult more widely and responses are invited from the public and organisations with an interest in the regulatory framework governing electronic communications

How to Respond

This 6-week consultation will run for a period from **Monday 15 December 2014 until Monday 26 January 2015**.

Please ensure that your response reaches us by **08:00 hours on Monday 26 January 2015**. If you would like further copies of this consultation document, it can be found at: <https://www.gov.uk/government/consultations/changing-existing-regulations-for-an-emergency-alert-system>

You are invited to respond to the questions set out on page 13 of this proposal to amend the Privacy and Electronic Communications (EC Directive) Regulations 2003. Please send your responses to public.alert@cabinet-office.x.gsi.gov.uk, or for written responses:

Consultation on Implications of PECR 2003 on Alert Systems
Civil Contingencies Secretariat
3rd Floor
35 Great Smith Street
London
SW1P 3BQ

If you require alternative formats (Braille, audio CD, etc) please contact public.alert@cabinet-office.x.gsi.gov.uk

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

This consultation will be carried out in accordance with the Consultation principles at Annex A.

A list of those who have been sent this consultation is attached at Annex B: Organisations being consulted. If you have any suggestions of others who may wish to be involved in this process please contact us.

Freedom of information

The information you send us may need to be passed to colleagues within the Cabinet Office or other government bodies, published in a summary of responses received and referred to in the published consultation report. The Department will process all personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

All information contained in your response, including personal information, may be subject to publication or disclosure, if requested, under the Freedom of Information Act 2000 (as amended) or the Environmental Information Regulations 2004. By responding to this public consultation exercise, it is taken that you understand this. If you want any of the information that you provide to be treated as confidential, you should explain why as part of your response, although we cannot guarantee to do this. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be sufficient; a specific explanation is required. A statutory Code of Practice under the Freedom of Information Act deals, amongst other things, with obligations of confidence and we will comply with its terms.

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1. The Proposal

1.1 Need for emergency alerting

1. During an emergency there is high demand for information. This can have the greatest benefit to those involved when this is issued early on in the incident, allowing recipients to take the recommended action to limit the impact of the emergency. This might include those areas where a Severe Flood Warning has been issued or an industrial accident at a chemical site. It is recognised that no alert system will reach all affected people all of the time and that a public alert system should be capable of disseminating alert messages through multiple channels to improve the likelihood that it is received.
2. The success of an alert system can be measured by the numbers of people in an affected area who take appropriate action to reduce or limit harm once they are notified of what to do. This is dependent upon correctly identifying persons at risk, getting messages to them quickly, and advising what action they need to take. Historically, sirens have been used to warn the public of emergencies but their effectiveness is mixed as often those who hear the siren are unsure about what action they should take. With greater access to a range of communications technologies the way in which people receive information is changing and it is important that emergency communications keep pace.
3. Research and evidence has identified that alert messages should be geographically targeted so as not to trouble people unnecessarily. Issuing unnecessary warnings is likely to have a negative effect over time as recipients will be less likely to take note of alert messages in the future.
4. The high levels of mobile phone ownership (92%² of all adults) and the cellular make-up of the mobile network infrastructure provide both the reach and location specificity necessary for an effective alert system. There are already a number of opt-in systems in operation in local areas that do not have a good sign up rate, something which hampers the effectiveness of the system in times of crisis.
5. The Environment Agency operates the Floodline Warnings Direct System to warn members of the public who are at risk of flooding. This system, which originally required people to opt in to receive alerts, was changed in 2010, as a

² Communications Market Report, 2014; OFCOM

result of recommendations made in the Pitt Review³ to automatically enrol people in affected areas on to the system. This saw a huge increase in the reach of the system; with 464,260 people registered in 2010 to more than 952,000 after the change to the service. The Environment Agency offers the option to opt-out of the system however the percentage of people who take this up is very low - only 0.1%.

6. A series of trials, run in partnership with mobile network operators, were completed in 2013 to identify how alert messages might be disseminated. A comprehensive evaluation report, which identified that a solution known as “Location Based SMS” would be the best way forward, was published in March 2014⁴. Location Based SMS would enable the police, the Environment Agency and in extreme cases the Government to send SMS “text” messages very quickly to those believed to be in the area of an emergency informing them what action they should take to limit harm and impact from the emergency. Two key requirements that the Cabinet Office has specified are:
 - **Speed:** Messages should be issued within 15 minutes of a decision to send; and
 - **Coverage:** As many impacted people as possible should receive the alert message. To enable this, people should be automatically enrolled on the scheme and the overwhelming majority of devices should be capable of receiving an emergency alert message.
7. This approach follows that being adopted in other countries including Australia⁵ and also in Sierra Leone to support efforts with the Ebola outbreak⁶. Other mobile phone based alert capabilities using different technologies operate in the United States⁷ and the Netherlands.

³ Learning lessons from the 2007 Floods: An independent review by Sir Michael Pitt; 2009; http://webarchive.nationalarchives.gov.uk/20100807034701/http://archive.cabinetoffice.gov.uk/pittreview/_media/assets/www.cabinetoffice.gov.uk/flooding_review/pitt_review_full%20pdf.pdf

⁴ Final Report in to the Mobile Alerting Trials, March 2014, Cabinet Office; <https://www.gov.uk/government/publications/mobile-alerting-trials-for-public-emergencies>

⁵ Australia Emergency Alert System, www.emergencyalert.gov.au

⁶ BBC News: Ebola Text-message system set to expand. 14 October 2014; <http://www.bbc.co.uk/news/technology-29610865>

⁷ Wireless Emergency Alerts; Federal Emergency Management Agency (FEMA); <http://www.fema.gov/wireless-emergency-alerts>

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8. As set out in further detail below, the Cabinet Office proposes to amend the Privacy and Electronic Communications Regulations to enable the potential future implementation of a Location-Based SMS alert system.

1.2 The fit with UK Regulation

9. The Privacy and Electronic Communications Regulations 2003/2426⁸ (“PECR” or “the Regulations”) transpose into UK law EC Directive 2002/58/EC (sometimes referred to as the ‘e-privacy directive’). The Regulations set out a range of safeguards to protect people’s privacy in an ever more connected world. The Information Commissioner’s Office (ICO) is responsible for enforcing PECR and can investigate any complaint that the regulations have been breached.
10. The restrictions in the Regulations as they currently stand would prevent communications providers from issuing alert messages on behalf of the authorities without the prior consent of users. In order to ensure that as many people as possible who might be affected by the emergency can be contacted, all those thought to be in the area would receive a message. Individuals will not be given the opportunity to opt-out of this. As detailed later in this document, evidence shows that the majority of people are content to receive messages that they have not signed up for, if it is about a serious emergency.
11. Should a system be implemented in the future, it is anticipated that the Government and Mobile Network Operators will wish to publicise the service, before it is rolled out so that the public is made aware, that they may, on rare occasions, receive an emergency alert messages from the authorities in this way.

⁸ Privacy and Electronic Communications Regulations 2003;
<http://www.legislation.gov.uk/uksi/2003/2426/contents/made>

2. Background

2.1 The emergency planning context

12. The number of emergencies that the UK faces is low, but unpredictable events can cause significant damage to the community when they do happen. The UK's National Risk Register of Civil Emergencies⁹ identifies the likelihood and impact of a range of major threats, such as terrorist attacks on crowded places or transport systems, and hazards to the UK such as industrial accidents, flooding or other severe weather events. The UK policy on emergency preparedness is to develop and maintain 'generic' capabilities to be employed in a flexible manner as particular emergencies require.
13. To improve and maintain the resilience of the UK, a range of organisations work together and coordinate their operations. The Civil Contingencies Act 2004 defines a number of organisations as either Category 1 or 2 emergency responders. Those designated as Category 1 responders are expected to play a role in responding to most emergencies. This group includes the emergency services, acute NHS trusts and local authorities. Recognising the crucial role that communications play, all Category 1 emergency responders have a statutory duty to maintain arrangements for communicating with the public in the event of an emergency.
14. Consultation with emergency responders¹⁰ has identified that quickly alerting the public in the vicinity of an emergency is a gap in their current capability. The Government has considered how this might be addressed. It is recognised that a public alert system should not be reliant on one particular technology, but implementing a mobile-based system would provide a significant enhancement to current capability and lay the foundations for additional communications channels to be used in the future. This will sit alongside existing communications methods such as social media, TV and radio broadcasts.

2.2 The Mobile Alerting Trials

15. In 2013 a project was launched to complete a series of trials in partnership with three of the UK's Mobile Network Operators (MNOs) and emergency

⁹ National Risk Register – 2013 Edition, Cabinet Office;
www.gov.uk/government/publications/national-risk-register-for-civil-emergencies-2013-edition

¹⁰ Civil Alerting Workshops: Summary Report; Cabinet Office; August 2012;
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/208825/20130617Civil_Alerting_Workshops-Report_FINAL_.pdf

responders to assess different methods of sending alerts to people's mobile phones. The aim was to ascertain what the best technical approach was, what emergency responders thought about the system (how it could assist them in issuing alerts and what challenges there would be for implementation); and finally views of members of the public about the efficacy of such a system and the acceptability of being targeted with alerts in this manner.

16. The trials found¹¹ that Location-Based SMS is the preferred solution following a detailed technology comparison using evidence obtained from the trials and consultation with the Mobile Network Operators. Lessons learned from colleagues who have adopted similar systems in other countries were also taken into account.
17. Emergency responders were very keen to see the implementation of a national mobile alert system and reported that the tool would help them to plug current gaps in their ability to notify members of the public about serious emergencies.
18. Finally, views from the public were gathered with findings suggesting that the majority of people (85%) felt that a mobile alert system was a good idea. Public views (obtained via focus groups, and online surveys) on 'intended compliance with advice' issued in sample alert messages was also high (81%). This suggests that the system would be an effective way of getting people to take specific protective action during an emergency.
19. Previous work in 2012, asked about automatic enrolment in such a scheme, 76% of the public thought that this was acceptable¹². Three quarters (76%) of British adults said these messages should be sent to everyone even if they have not opted-in while one in five (21%) thought they should only be sent to those that specifically give their permission. Full detail can be found in the trial report which is available on GOV.UK.

2.3 What is an emergency alert message and how will a decision to send it be made?

20. Once implemented, the Emergency Alert system would allow for urgent messages to be sent to those believed to be at direct risk due to their location. The following criteria are suggested as trigger points to prompt alert authorisers (as proposed in the table below) into considering if the alert system should be

¹¹ Final Report in to the Mobile Alerting Trials, March 2014, Cabinet Office;
<https://www.gov.uk/government/publications/mobile-alerting-trials-for-public-emergencies>

¹² Report into Extended Floodline Warnings Direct Trial; May 2012, Cabinet Office,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85943/EFWD-report-summary.pdf

used. This has been developed following detailed consultation with emergency responders and communications experts across the UK. It is envisaged that such a system would be activated for an emergency as defined by section 1 of the Civil Contingencies Act 2004. This is summarised below with further detail available at **Annex D**.

<p>(1) In this Part “emergency” means—</p> <p>(a) an event or situation which threatens serious damage to human welfare in a place in the United Kingdom,</p> <p>(b) an event or situation which threatens serious damage to the environment of a place in the United Kingdom, or</p> <p>(c) war, or terrorism, which threatens serious damage to the security of the United Kingdom.</p>

21. It is likely that the system will be used in the event of one of five major types of incident. Also included are the proposed alert authorisers for each type of incident. For each organisation this will be someone at an appropriate level of seniority:

Type of Incident	Description	Proposed organisation responsible for issuing the alert
No notice hazardous site incidents	An example would be a chemical spill at a COMAH ¹³ site or other hazardous site. Plans for dealing with the off-site consequences of these incidents are prepared by statutory agencies and already include sections on public communications. If a public alert system existed, this may be referenced in this section of the plan setting out any specific arrangements regarding the use of an UK-Alert system.	Police (Gold Commander)
No notice incidents	An example would be an explosion in a city centre or reservoir inundation. Activation of the system may be at the	Police (Gold Commander)

¹³ Control of Major Accident Hazards, a chemical plant for example.

	discretion of the Police Commander.	
A severe flood warning:	The Environment Agency would consider using the system alongside their Flood Warning service when a severe flood warning was issued.	Environment Agency Natural Resources Wales Scottish Environment Protection Agency Northern Ireland Environment Agency (Area Strategic Manager or equivalent)
Rising tide events	An example would be severe weather where onset can be predicted. In these cases, it is proposed that the Strategic Coordinating Group ¹⁴ approve alert messages to be sent.	Police
National Disaster	Central Government Activation. This is only likely to be appropriate for incidents affecting large areas or the most serious incidents.	Police or HMG (in extreme cases)

22. It is proposed that once a decision has been made to issue an alert, the target area and the alert message would be defined by the relevant public authority. This information would be passed to the mobile network operators who would identify which of their masts are in the affected area. In order to route calls to your mobile, send or receive text messages or use the web the mobile networks would need to check which mast your phone was last connected to. By analysing this, it would be possible to send a SMS text-message to those handsets in the vicinity of masts in the affected area(s). Robust security arrangements will be in place to ensure the integrity of the system.
23. The alert system will only be used where it would be a useful and proportionate means of responding in the circumstances. For example, we would not expect the system to be used for peaceful and lawful protests or for school closures.

¹⁴ The Strategic Coordinating Group is the multi-agency group that convenes to coordinate the response to an emergency within a given area and may be known as a 'Gold Group'.

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24. It is proposed that the mobile networks will provide the relevant authority with reports on the volume of messages sent, aggregated information on delivery status and the time taken to send them. **These reports would not include information on which users have been sent the messages. No personal data would be provided to the authorities.** More than one message may be issued during an emergency in response to changing circumstances, levels of risk and to repeat the messages if needed. It is anticipated that over time, as an emergency progresses, alternative communications structures and mechanisms would be established, reducing the need to rely on the Location-Based SMS system.
 25. It is important that stand-down messages are issued at the end of an incident to everyone who received a prior message, to keep people informed, especially if they have had to take some form of protective action such as evacuating an impacted area.
 26. The Mobile Alerting Trials found that the other method investigated, Cell Broadcast, would not be as appropriate as Location-Based SMS due to issues with handset compatibility. Other technology, such as apps on handsets does not offer automatic enrolment resulting in drastically fewer people potentially being alerted to the situation.
 27. The Government will ensure that there is an appropriate communications strategy in place prior to any system launch. This strategy will need to consider how to inform members of the public about how the system works, how it will operate on their device and what they should do if they receive an alert message.

2.4 How will the system interact with my device?

28. The alert system would be location specific, which means alerts would be sent to mobile devices that are believed to be in an area that is impacted by an emergency, at that time. The alert message would display in the same way as an ordinary SMS message and would contain important information about what action to take and where to go for further details (this could be a website link or a radio station for example, whichever would be most appropriate for that incident). Members of the public will not be required to sign up to participate in the system nor will they be required to provide any personal information to the authorities. Instead the Mobile Network Operators would identify which devices were connected to the masts in the impacted areas at that time and use the information to send out an SMS alert to all those on the list. This activity would take place within the mobile networks and information about individual's devices would not be available to the authorities.

2.5 How is the processing of traffic and location data regulated?

29. Regulations 7 and 8 of PECR place restrictions on what communications service providers can do with “traffic data”, defined as any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing in respect of that communication. It includes data relating to the routing, duration or time of a communication. For example, traffic data can only be processed for a limited number of purposes, such as billing, which are set out at regulation 8(3) and these do not cover emergency alert systems. The network operators would need to process traffic data in order to send an alert message to handsets in an affected area. It is possible that ‘location data’ might have to be processed too, depending on the equipment used by the operators to meet system requirements, and controls on the use of location data are set out in regulation 14. Extracts from the Regulations are given at Annex B for convenience with further guidance on PECR published by the Information Commissioner’s Office¹⁵.
30. The regulations currently provide exceptions to some of the data processing restrictions imposed by PECR. For example, when dialling 999 or 112 to call the emergency services, Regulation 16 permits the processing of location data to identify the approximate position of the phone making the call. This is to help the emergency services get the assistance you need as quickly as possible – particularly if you are in an unfamiliar location.
31. The necessary amendments to PECR could be undertaken through secondary legislation with effect from spring 2015. Further development of the activation protocols and procedures would be required for any future system. Once agreed it is likely that a full national implementation would take approximately 12-18 months.

¹⁵ http://ico.org.uk/for_organisations/privacy_and_electronic_communications/the_guide

3. Options for change

The two options outlined below are the subject of this consultation.

3.1 Option 1: Do nothing

32. It may be determined that no changes to the PECR should be made. Should the status quo remain, the Government would not be able to roll out a Location-Based SMS alert system. It may be possible to enhance and develop other methods to alert the public but they would have neither the reach nor the ubiquity that a mobile phone based system would provide.

The Government would not be able to roll out the proposed new alert system, a tool which would significantly enhance current arrangements.

3.2 Option 2: Introduce a new targeted exemption

33. Introducing a targeted and specific exemption in PECR to allow operators to process and store traffic (and location data also if necessary) for the limited purpose of operating a public emergency alert system. Details of users contacted in this manner would **not** be provided to the issuing agency.

The Department's initial preference is for option 2 because of what we consider to be the clear public benefit in having a Location-Based SMS alert system available to communicate with people in areas affected by an emergency

However, our decision to proceed will take account of all responses received to this consultation.

4. Impact of the Proposal

4.1 Policy rationale and intended effects

34. This proposal will only impact those communications service providers that agree to participate as part of the UK Public Emergency Alert system. Currently, thoughts are that this will be confined to the four Mobile Network Operators (MNOs) within the UK: EE, Vodafone, Telefónica O2 and Three. The Mobile Virtual Network Operators (MVNOs) such as Virgin, GiffGaff and Tesco mobile lease capacity wholesale from one of the MNOs and as such do not operate their own infrastructure and unable to undertake any processing of data for this system.
35. Further, the mobile networks will not commence works to implement any alert system until agreed with HM Government. Consequently the impact on the four MNOs is considered minimal.
36. An initial assessment of potential impact of amends to the regulations is set out below. This assessment has been submitted to the Regulatory Policy Committee (RPC) for independent scrutiny through the “trriage” process. There is a precedent for HM Government compensating communication service providers for providing services like this to the Government. It is intended that an agreement would be entered into with the mobile networks to provide the service and cover the costs of any system changes and developments that might be necessary. Therefore the costs of this programme have been **excluded** from this assessment.

4.2 Key benefits

37. This regulation change would not yield any direct (first order) monetisable benefits as this is a permissive regulatory change. The change in regulation would remove a barrier for the networks, allowing them to issue a Location Based SMS message when the relevant agencies (including a Minister of the Crown in certain circumstances) have notified them to do so in respect of an emergency.
38. Second-order benefits will arise to communications companies as a result of such agreement, such as a revenue stream to mobile network operators (from HMG), as well as possible positive reaction from customers as a result of the networks involvement in assisting HMG with protecting the public in times of crisis. As above, such indirect effects are not monetised in this assessment.
39. Any further costs and benefits to the government or public with regard to the operation of a Location-Based SMS system (e.g. benefit in damage to health

avoided, or risk associated with misuse) are not considered here as, they relate to the operation of the system rather than the regulatory change per se. This will happen subject to a separate agreement between the Communications Providers and the Government.

4.2.1 Organisations Most Affected

40. The organisations directly affected by this change would be the communications companies currently prevented from processing traffic and location data by the current body of regulations. This change will affect those communication service providers that operate their own infrastructure – rather than lease capacity from wholesalers. However, the Privacy and Electronic Communications Regulations apply to all communications providers so it is likely that any changes to regulations will at least be reviewed by most providers.

4.2.2 Wider Assessment of Impact

Economic/ financial	<ul style="list-style-type: none"> The organisations that would bear the impacts are the four mobile network operators as providers of the mobile infrastructure. Other 'Virtual' operators such as Virgin or Tesco lease capacity wholesale from the major networks and are thus exempt from the changes. There is a possibility the change would encourage some innovation in the providers of messaging platforms as they look to make their systems capable of delivering this new approach.
Social	<ul style="list-style-type: none"> The intention of the broader alert programme is to limit impact from major emergencies through reducing human harm and loss of property. However, this regulation change will not achieve that on its own. The direct changes of the regulation will not have any adverse impact on certain sections of society.
Environmental	<ul style="list-style-type: none"> No adverse changes.

5. Summary of Consultation Questions

41. This consultation document seeks views on the two options which respondents are invited to consider when responding to this consultation:
1. **Do nothing:** this will mean that no changes are made to PECR. As such a significant barrier to introducing a UK Alert system based on location-based SMS technology would remain in place.
 2. **Introduce a new targeted exemption:** specifically to allow an alert system by excluding from restrictions on network operators the processing of traffic data for the purpose of sending alert messages to the public in the event of an emergency. A similar provision relating to location data would be included should this also be identified as necessary to enable the operation of the alert system.

5.1 Questions

1. Do you agree with the Government's proposal to amend PECR to allow MNOs to process communications data for the purpose of a Location-Based SMS alert system?
2. Are there any costs or benefits associated with any of these options that you feel need to be considered before any final decision is taken?
3. Do you consider that the regulations pertaining to location data would also require amendment?
4. Do you consider that these changes would have any other impact on you or your organisation?
5. Do you have any other comments about the proposed changes?

5.2 What will happen next?

42. A summary of responses, including the next steps, will be published on the Department's website at: <https://www.gov.uk/cabinetoffice>. Paper copies will be made available on request.
43. Should a decision be made to proceed, the intention would be to make amendments to the regulations in spring 2015. Government may wish to consult on other aspects of an emergency alert system in due course.

5.3 Conclusion

44. The proposal is to make a targeted amendment to the PECR so as to permit the future deployment of an Alert system. Through a careful change the robust framework that the PECR already provides to safeguard privacy would remain. The Department is of the view that this measure is warranted to reduce the harm caused by major emergencies.

Annex A: Consultation Principles

This consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available on the Better Regulation Executive website at <https://update.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation on Implications of PECR 2003 on Alert Systems
Civil Contingencies Secretariat
Cabinet Office
3rd Floor
35 Great Smith Street
London
SW1P 3BQ

Email public.alert@cabinet-office.x.gsi.gov.uk

Consultation Principles

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

Annex B: Organisations being consulted

Information Commissioner's Office
Ofcom
Citizen's Advice
British Telecom
Virgin Media
TalkTalk
CBI
EE
GSMA
KCOM
UK Competitive Telecommunications Association (UKCTA)
Ombudsman Service Communications
Department for Business Innovation & Skills
Department for Culture, Media and Sport
Ministry of Justice
Vodafone
EE
Hutchison 3G
Telefonica
CMS Select Committee
Interested parliamentarians
Association of Chief Police Officers
Chief Fire Officers' Association
Environment Agency
Health and Safety Executive
Liberty
Big Brother Watch
Open Rights Group
Local Resilience Forums across the UK
National Steering Committee for Warning and Informing

Annex C: Restrictions on the processing of traffic and location data

The sections below are relevant extracts from the Privacy and Electronic Communications Regulations 2003.

Definitions

“location data” means any data processed in an electronic communications network, all by an electronic communications service, indicating the geographical position of the terminal equipment of a user of a public electronic communications service, including data relating to—

- i) the latitude, longitude or altitude of the terminal equipment;
- ii) the direction of travel of the user; or
- iii) the time the location information was recorded;

“traffic data” means any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing in respect of that communication and includes data relating to the routing, duration or time of a communication;

7.— Restrictions on the processing of certain traffic data

(1) Subject to paragraphs (2) and (3), traffic data relating to subscribers or users which are processed and stored by a public communications provider shall, when no longer required for the purpose of the transmission of a communication, be—

- (a) erased;
- (b) in the case of an individual, modified so that they cease to constitute personal data of that subscriber or user; or
- (c) in the case of a corporate subscriber, modified so that they cease to be data that would be personal data if that subscriber was an individual.

(2) Traffic data held by a public communications provider for purposes connected with the payment of charges by a subscriber or in respect of interconnection payments may be processed and stored by that provider until the time specified in paragraph (5).

(3) Traffic data relating to a subscriber or user may be processed and stored by a provider of a public electronic communications service if—

- (a) such processing and storage are for the purpose of marketing electronic communications services, or for the provision of value added services to that subscriber or user; and
- (b) the subscriber or user to whom the traffic data relate has previously notified the provider that he consents to such processing or storage; and
- (c) such processing and storage are undertaken only for the duration necessary for the purposes specified in subparagraph (a).

(4) Where a user or subscriber has given his consent in accordance with paragraph (3), he shall be able to withdraw it at any time.

(5) The time referred to in paragraph (2) is the end of the period during which legal proceedings may be brought in respect of payments due or alleged to be due or, where such proceedings are brought within that period, the time when those proceedings are finally determined.

(6) Legal proceedings shall not be taken to be finally determined—
(a) until the conclusion of the ordinary period during which an appeal may be brought by either party (excluding any possibility of an extension of that period, whether by order of a court or otherwise), if no appeal is brought within that period; or
(b) if an appeal is brought, until the conclusion of that appeal.

(7) References in paragraph (6) to an appeal include references to an application for permission to appeal.

8.— Further provisions relating to the processing of traffic data under regulation 7

(1) Processing of traffic data in accordance with regulation 7(2) or (3) shall not be undertaken by a public communications provider unless the subscriber or user to whom the data relate has been provided with information regarding the types of traffic data which are to be processed and the duration of such processing and, in the case of processing in accordance with regulation 7(3), he has been provided with that information before his consent has been obtained.

(2) Processing of traffic data in accordance with regulation 7 shall be restricted to what is required for the purposes of one or more of the activities listed in paragraph (3) and shall be carried out only by the public communications provider or by a person acting under his authority.

(3) The activities referred to in paragraph (2) are activities relating to—
(a) the management of billing or traffic;
(b) customer enquiries;
(c) the prevention or detection of fraud;
(d) the marketing of electronic communications services; or
(e) the provision of a value added service.

(4) Nothing in these Regulations shall prevent the furnishing of traffic data to a person who is a competent authority for the purposes of any provision relating to the settling of disputes (by way of legal proceedings or otherwise) which is contained in, or made by virtue of, any enactment.

14.— Restrictions on the processing of location data

(1) This regulation shall not apply to the processing of traffic data.

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- (2) Location data relating to a user or subscriber of a public electronic communications network or a public electronic communications service may only be processed—
- (a) where that user or subscriber cannot be identified from such data; or
 - (b) where necessary for the provision of a value added service, with the consent of that user or subscriber.
- (3) Prior to obtaining the consent of the user or subscriber under paragraph (2)(b), the public communications provider in question must provide the following information to the user or subscriber to whom the data relate—
- (a) the types of location data that will be processed;
 - (b) the purposes and duration of the processing of those data; and
 - (c) whether the data will be transmitted to a third party for the purpose of providing the value added service.
- (4) A user or subscriber who has given his consent to the processing of data under paragraph (2)(b) shall—
- (a) be able to withdraw such consent at any time, and
 - (b) in respect of each connection to the public electronic communications network in question or each transmission of a communication, be given the opportunity to withdraw such consent, using a simple means and free of charge.
- (5) Processing of location data in accordance with this regulation shall—
- (a) only be carried out by—
 - (i) the public communications provider in question;
 - (ii) the third party providing the value added service in question; or
 - (iii) a person acting under the authority of a person falling within (i) or (ii); and
 - (b) where the processing is carried out for the purposes of the provision of a value added service, be restricted to what is necessary for those purposes.

16.— Emergency calls

- (1) For the purposes of this regulation, “emergency calls” means calls to either the national emergency call number 999 or the single European emergency call number 112.
- (2) In order to facilitate responses to emergency calls—
- (a) all such calls shall be excluded from the requirements of regulation 10;
 - (b) no person shall be entitled to prevent the presentation on the connected line of the identity of the calling line; and
 - (c) the restriction on the processing of location data under regulation 14(2) shall be disregarded.

Annex D: CCA Definition of an Emergency

It is envisaged that such a system would be activated for an emergency as defined in section 1 of the Civil Contingencies Act 2004. The text of this is reproduced below.

(1) In this Part “emergency” means—

- (a) an event or situation which threatens serious damage to human welfare in a place in the United Kingdom,
- (b) an event or situation which threatens serious damage to the environment of a place in the United Kingdom, or
- (c) war, or terrorism, which threatens serious damage to the security of the United Kingdom.

(2) For the purposes of subsection (1)(a) an event or situation threatens damage to human welfare only if it involves, causes or may cause—

- (a) loss of human life,
- (b) human illness or injury,
- (c) homelessness,
- (d) damage to property,
- (e) disruption of a supply of money, food, water, energy or fuel,
- (f) disruption of a system of communication,
- (g) disruption of facilities for transport, or
- (h) disruption of services relating to health.

(3) For the purposes of subsection (1)(b) an event or situation threatens damage to the environment only if it involves, causes or may cause—

- (a) contamination of land, water or air with biological, chemical or radio-active matter, or
- (b) disruption or destruction of plant life or animal life.
- (c) disruption or destruction of plant life or animal life.

(4) A Minister of the Crown, or, in relation to Scotland, the Scottish Ministers, may by order—

- (a) provide that a specified event or situation, or class of event or situation, is to be treated as falling, or as not falling, within any of paragraphs (a) to (c) of subsection (1);
- (b) amend subsection (2) so as to provide that in so far as an event or situation involves or causes disruption of a specified supply, system, facility or service—
 - (i) it is to be treated as threatening damage to human welfare, or
 - (ii) it is no longer to be treated as threatening damage to human welfare.

(4A) In relation to Northern Ireland, the power to make orders—

- (a) under subsection (4)(a) in relation to subsection (1)(a) or (b), and
- (b) under subsection (4)(b), is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).

(5) The event or situation mentioned in subsection (1) may occur or be inside or outside the United Kingdom.