

Hadams Consultants L^{td}. Response to BIS consultation - Digital Britain

Proposed New Duties for Ofcom on resilience

Overview

It is true to say that major electronic communication providers already provide a highly resilient service and co-operate with government in exercises to test emergency preparedness, as well as developing sector wide emergency response processes.

It is desirable that as far as is possible the current practices should be followed and built upon.

However, the introduction of new duties for Ofcom in this area will assist in encouraging regulatory certainty. **Hence we are broadly in support of the proposed introduction of New Duties for Ofcom on resilience.**

Specific points

There are a number of fundamental issues that we believe should be addressed in connection with the proposed new duties for Ofcom:

1. Proportionality – it must be ensured that any measures do not unfairly burden small providers whose impact upon the national infrastructure is minimal.
2. Following on from the above point there are many hundreds of electronic communication providers, but of these most are too small to have noticeable impact upon the CNI. It would therefore be sensible to develop criteria/thresholds that mark an electronic communication service provider as a significant company that needs to report on its activities in the area of resilience.
3. Linked to both of the above we believe it to be worthwhile to consider the redefinition of what constitutes a telecommunication category 2 responder. Currently this is a very broad definition. There are a number of parameters that should influence this definition: number of customers served; traffic carried; geographic coverage; and the category of customers served.
4. Consideration should be given to including Airwave as a category 2 responder.
5. Recognise that differing categories of service providers should be treated similarly. Fixed and mobile should be treated in a similar way as should VoIP and IP providers. This is not currently the case.
6. It must be recognised that service and infrastructure are increasingly separated as providers move towards IP based networks, and hence both

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must be considered. For example a company may provide major services but own little infrastructure.

7. In the area of co-operation with authorities for sector and inter-sector exercises the question of recompense should be considered. The electronic communication sector should be treated in a similar manner to other sectors.
8. In the area of reporting significant failure, parameters for such reporting should be defined; otherwise Ofcom will be overrun with reports of a large number of minor failures. Historically BT used the following for reporting loss of access to 999: "500 (or greater) customers or 50% (or greater) of customers, whichever is the smaller for 30 minutes or more"; this is for a given service area. Loss of access to 999 is an approximate analogue of loss of dial tone, Definition of a service area can be problematic, and needs close consideration. There is also a need to report core network failure.
9. There is a need to establish what level of service can be expected as provided normally, and at what point additional investment is required by the customer to support mission critical aspects of their business. The separation of service/content and infrastructure can confuse this point.
10. We believe that Ofcom should be closely involved with European developments in this area and the sector should be encouraged to actively participate, either directly or via an industry representative of EC-RRG. The ARECI report closely follows the UK approach and this countries expertise in this area will inform the outcome of European deliberations.

Response to consultation questions

The following are Hadams Consultants response to the nine questions in the consultation.

Question 1

Do you agree that Ofcom should have the power to require that electronic communications operators report to Ofcom on risk assessments carried out?

Answer 1

Yes.

Question 2

Do you consider that Ofcom should have the additional power to require that further risk assessments be undertaken by relevant companies if those supplied are deemed insufficient? If so, how should this assessment process take place?

Answer 2

Given the powers suggested in question 1, it is only reasonable that Ofcom should be able to require companies to provide information to a minimum standard. A pro forma approach would help to determine the requirements and give the companies a degree of regulatory certainty.

Question 3

Should risk assessments be based on existing Government processes?

Answer 3

Yes. Many companies are familiar with this approach, hence are more likely to provide quality responses.

Question 4

Do you agree there should be a duty on relevant companies to provide information to Ofcom on their emergency plans?

Answer 4

Yes. However it must be recognised that much of this information will be commercially and security sensitive and should not be generally published, and sharing information with others in the sector may be limited.

Question 5

Do you agree that there should be a duty on such companies to a) test emergency plans and b) participate in Government exercises as and when necessary to ensure overall resilience?

Answer 5

Yes, plans should be tested and participation in government exercise mandated. This should include exercises limited to the sector and across multiple sectors. There should be some limit to the number and scale of the exercises supported, in order that financial commitment may be contained.

Question 6

Are there any other issues concerning the resilience of networks that you believe should be addressed in legislation?

Answer 6

Consideration should be given to a balanced reporting regime for failure both within and at the access points of networks. This is a difficult area; determining impact of a given failure can be problematical.

Question 7

Do you think that the proposals in this consultation document are in line with the expected outcome of the Framework Review?

Answer 7

Broadly.

Question 8

What do you think the economic impacts of these proposals will be upon your business and do you have any comments on the impact assessment?

Answer 8

Not applicable.

Question 9

Are there any other points you wish to make in relation to the issues covered in this consultation?

Answer 9

See the specific points, above.

Suggested additional organisations to be consulted (see annex B)

In the BIS consultation regarding additional powers for Ofcom there is a list in Annex B, of organisations consulted with a request to identify any others that should have been included. Many of these may respond via their regulatory departments, but we offer them in the hope that this will help broaden the response.

The following is our (non-exhaustive) list:

1. ACPO (Association of Chief Police Officers) – in particular their committee that looks after telecoms & 999. I understand that Ian Readhead (Ex Assistant Chief Constable at Hampshire) deals with communications.
2. The equivalent of ACPO for the Fire and Rescue services.
3. The 999 Liaison Committee (Government chair is Martin Hill)
4. Airwave as the supplier of radio network to the emergency services

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5. AT & T, a big global player who do have a large presence in the UK (and do attend the EC-RRG)
6. FSA (Financial Services Authority) – they are very concerned with the importance of electronic communication in supporting mission critical services.
7. LINX (London INternet eXchange)
8. Representatives of the data-warehousing industry (for example: Telehouse Europe and Level3).

These companies and organisations are likely to have many contributions from differing points of view.

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