



JRC Response to the BIS Consultation on 'Proposed New Duties for Ofcom on resilience: Secondary Information'

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Key Points

- ❑ The 'List of Individuals and Organisations consulted' contained in Annex B does not appear to include a significant number of important organisations who would be affected by the proposed new duties, or have an interest in them. In particular, elements of the critical national infrastructure in terms of utilities and transportation appear to be missing.
- ❑ The consultation does not make it clear whether the obligations are intended to focus on networks delivering end services to citizens and consumers; or major telecoms networks supporting UK infrastructure.
- ❑ A collaborative approach whereby Government chairs a co-ordination group involving industry and the regulator, based on the Energy industry E3C model is likely to be more effective than simply requiring Ofcom to report on resilience and emergency preparedness.
- ❑ A major concern for the energy utilities in securing improvements to the resilience of their communication networks is the lack of guaranteed access to radio spectrum administered by Ofcom itself.
- ❑ As well as imposing an obligation on the industry to report on resilience, in our view there needs to be a corresponding obligation on Ofcom to report what measures Ofcom itself is taking to facilitate and support communications within and between the critical infrastructure industries.
- ❑ Reporting on the resilience of networks does not change the situation: it is our belief that most networks operators are already aware of their resilience issues, but improving resilience is expensive and it is not clear what use will be made of information collected and where the cost burden will fall for improving resilience.

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?

1. It is not clear to us the extent to which this provision might apply, particularly whether it is focused on 'public' network providers, or organisations operating communications networks which comprise or support the critical national infrastructure.
2. In our view, a collaborative approach, led by Government, in which Ofcom and the industry work collaboratively to assess, measure and test the resilience and emergency preparedness of the national telecommunications infrastructure is likely to deliver a more satisfactory outcome for all parties.

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?

3. At present, there is no evidence that Ofcom contains the necessary expertise to challenge risk assessments compiled by telecoms network operators, and therefore this provision would appear inappropriate at this time.

Question 3: Should risk assessments be based on existing Government processes?

4. JRC acknowledges that the Cabinet Office has invested significant effort in developing risk assessment metrics in recent years and this would appear a good starting point.

Question 4: Do you agree there should be a duty on relevant companies to provide information to Ofcom on their emergency plans?

5. As explained above, we believe a collaborative approach, led by Government, in which Ofcom and the industry work collaboratively to assess, measure and test the resilience and emergency preparedness of the national telecommunications infrastructure is likely to deliver a more satisfactory outcome for all parties than reporting obligations.

Question 5: Do you agree that there should be a duty on such companies to test emergency plans and participate in Government exercises as and when necessary to ensure overall resilience?

6. At present, it is unclear from the consultation document upon whom these obligations will fall, and thus it is not possible to respond to this question.

Question 6: Are there any other issues concerning the resilience of networks that you believe should be addressed in legislation?

7. We believe that the role of the communications sector in the wider context of the UK's Critical National Infrastructure should be more fully recognised in legislation. To facilitate this, we suggest that Ofcom's duties could be amended so that consideration is given to the effect of its activities in regulating the sector on CNI use of communications infrastructure. Alternatively, a provision for the Government to provide guidance to Ofcom on policy objectives may be a flexible means of ensuring that Ofcom works within the overall policy framework set by Government, including on matters of national security and infrastructure resilience.

Question 7: Do you think that the proposals in this consultation document are in line with the expected outcome of the Framework Review?

8. From the information presented, the proposals appear to be in line with anticipated developments in European legislation.

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?

9. JRC does not expect to be directly affected by the proposed requirements to provide information on communications networks. Furthermore, we believe that in order for Government to complete its assessment of costs for the impact assessment, there would have to be clarity on which companies would be covered by the new measures so that they could provide cost estimates.

10. In due course, we might expect a positive outcome from increased Government and regulatory focus on the resilience and security of the public networks, especially if there is also coordination with Government-led activity to maintain the resilience and security of the energy networks.

Question 9: Are there any other points you wish to make in relation to the issues covered in this consultation?

11. As explained in our 'key points' at the start of our response, because of the vital part that access to radio spectrum plays in facilitating construction, operation and maintenance of secure and resilient communications networks, the proposed reporting duties would be incomplete unless Ofcom itself is subject to the same obligation to assess its contribution to ensuring resilience and emergency preparedness of the UK communications infrastructure.

12. On 21 July 1997, during the passage of the Wireless Telegraphy Bill through Parliament to establish the current framework for radio spectrum management, the then Minister for Telecommunications, Lord Clinton-Davis, in response to concerns expressed by JRC said "that it is not our [the Government's] intention that the introduction of spectrum pricing should affect the access of utilities to the radio spectrum that they require." We believe that BIS needs to ensure that the current spectrum regulator reflects that assurance when considering requests from the utilities for spectrum to support their network resilience and emergency preparedness in response to this consultation.

Background

- A. JRC Ltd is a wholly owned joint venture between the UK electricity and gas industries specifically created to manage the radio spectrum allocations for these industries used to support operational, safety and emergency communications. JRC also represents gas and electricity interests to government on radio issues.
- B. JRC manages blocks of VHF and UHF spectrum for Private Business Radio applications, telemetry & telecontrol services and network operations. JRC created and manages a national cellular plan for co-ordinating frequency assignments for a number of large radio networks in the UK.
- C. The VHF and UHF frequency allocations managed by JRC support telecommunications networks to keep the electricity and gas industries in touch with their field engineers throughout the country. The networks provide comprehensive geographical coverage to support the installation, maintenance and repair of plant in all weather conditions on a 24 hour/365 days per year basis.
- D. JRC's Scanning Telemetry Service is used by radio based System Control And Data Acquisition (SCADA) networks which control and monitor safety critical gas and electricity industry plant and equipment throughout the country. These networks provide resilient and reliable communications at all times to unmanned sites and plant in remote locations to maintain the integrity of the UK's energy generation, transmission and distribution.
- E. JRC chairs the Information and Communication Technology (ICT) Working Group of the Energy Networks Association's Future Energy Networks Group assessing the ICT implications of Smart Networks, Smart Grids and Smart Meters.

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