

Dear Mr Christodoulou,

Although not listed in Appendix B of the consultation document, Airwave Solutions Ltd offers you a response to the consultation document on the [Proposed New Duties for Ofcom on Resilience: Secondary Information](#). Airwave's response are in red.

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?

No. This is not part of Ofcom's remit in Government at present and should not become part of its remit. This task should be housed and actioned by the Government department responsible for the Critical National Infrastructure (CNI), in the absence of a department for national security. However, Airwave believes that a requirement for electronic communications operators to report on their risk assessments would be beneficial, although risk assessments would need to be better defined by the requesting Government Department to ensure that the operators approached are using the same definitions and giving consistent responses. If it were to be Ofcom which takes up this new role, Ofcom would need to work with the operators to agree an appropriate framework for the response.

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?

No, see above. If this power were to rest with the department responsible for CNI then there should be a structure for the reporting process which makes it clear what is required from the outset. Private companies should not have to go through hoops over and over again unless the outcomes are very clear from the outset. The term "relevant companies" also needs to be defined. The first step is to agree appropriate process and framework. Assuming that these are defined and agreed, would the execution of a risk assessment process be sufficient? Or is it also expected that certain risks are managed to a set standard? If the latter then clarity and agreement is required on the expected standards along with how the improvements for UK government will be funded, along with details and agreement on penalties for non-compliance. It is assumed that the risk assessments are administered within each organisation, which will call into question consistency of approach and evaluation.

Question 3

Should risk assessments be based on existing Government processes?

Yes, providing that

(a) existing legislation is taken into account (CCA2004),

(b) new legislation is incorporated appropriately and in a timely manner, and

(c) funding is forthcoming for what will presumably be new (and onerous) requirements for “relevant companies”. Presumably also the risk assessments (if they go ahead) will be mandatory - will this require new legislation to ensure compliance?

Question 4

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

No, see 1 and others above. The FOIA is mentioned at the end of the document with regard to responses to this consultation. Has the FOIA been considered with regard to information given to Ofcom in this area?

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?

Yes with reservations: providing the requirements and punitive measures (if any) are set out clearly at the outset. And who pays for participation?

Question 6

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

Access for organisations to register on the Emergency and Public Safety Services' network (the Sharers' List) should be open all year round, not a two month opportunity followed by a six month approval process.

Question 7

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

Airwave does not believe that the proposals are in line with the expected outcome. Ofcom does not have the resources, understanding, knowledge or skills to carry out this task.

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?

No particular comment on this, Airwave's existing plans are budgeted for, but it depends what the new arrangements are going to be and what the expected outcomes will be.

Question 9

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

In our experience of working with Ofcom, Ofcom should not be involved in this matter. As stated above, Ofcom does not have the resources or expertise to be able to adjudicate or monitor this area of the UK's critical national infrastructure.

Regarding the policy options considered (listed on p16 of the consultation document) there is a third policy option: to house this requirement with the Government Department responsible for the CNI. In the past Airwave Solutions has provided such information as is expected in this document to the Civil Contingencies Secretariat.

If you have any questions or require any clarification on any of Airwave's comments above, please do not hesitate to contact me directly.

Best wishes and have a good weekend,

Rupert Cazalet

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