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Peter Christodoulou  
Information Economy  
Department for Business, Innovation and Skills  
UG 21  
1 Victoria Street  
LONDON  
SW1H 0ET

30 October 2009

Dear Peter,

3 welcome the opportunity to respond to the Department for Business, Innovation and Skills' consultation on proposed new duties for Ofcom on resilience.

3 is the most recent entrant into the UK mobile market, launching in 2003. We have the UK's largest mobile broadband network, providing coverage to over 91% of the population. By the end of 2010 this will grow to more than 98% coverage. With over 1 million mobile broadband customers, 3 is the largest mobile Internet Service Provider (ISP) and the sixth largest UK ISP.

3 is subject to the Civil Contingencies Act 2004 and is a Category 2 responder. As such, we are currently obliged to conduct regular risk assessments to establish business continuity. In addition, Ericsson, our managed services provider, carries out an annual exercise to determine infrastructure resilience and emergency preparedness.

**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. As stated above, 3 is currently listed as a Category 2 responder under the Civil Contingencies Act 2004. We currently perform regular internal risk assessments focusing on infrastructure resilience and emergency preparedness with our managed services provider Ericsson, and a twice-yearly risk assessment for our parent company Hutchison Wampoa Ltd. It is our belief that these assessments are more than adequate in determining the risk to 3 and its resilience in the face of an emergency situation.

3 believe that market forces are the best incentive for private enterprise to build a resilient business. Whilst our license obligations do not carry any requirements for



resilience, market forces determine that we do so to protect our customer base and business model.

We believe that given the rapidly changing infrastructure footprint in the communications sector (for example, 3 is currently undertaking a network share with T-Mobile), market consolidation, and the financial downturn, the powers suggested be given to Ofcom would carry a significant burden to the industry in terms of time and cost.

- 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.

- 3. Should risk assessments be based on existing Government processes?**

No. There can be no 'one size fits all' assessment in a sector as diverse and rapidly changing as that of mobile communications.

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

No.

Again, there can be no 'one size fits all' process for the mobile sector. We would consider sharing with Ofcom the details of the regular assessments carried out under the obligations of the Civil Contingencies Act and our regular reporting into our Parent Company. However, these should be treated as highly commercially sensitive and provide assurance as to the adequacy of our emergency planning.

- 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?**

- a) This currently occurs within 3 and with our Managed Services Provider (Ericsson) and we have no concerns over such a duty being introduced so long as onerous burdens are not placed upon the sector with regards to the frequency of testing.
- b) No. Aside from our regular internal testing, 3 attends the regular EC-RRG meeting and the communications sector has the opportunity to take part in the industry



EMPEX resilience testing as part of that group. We believe that these established groups would be far better placed to determine and test resilience than Government.

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

No. We believe that all necessary issues have been covered in the Civil Contingencies Act.

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

Yes.

**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?**

There would be a significant economic impact on 3 if we were required to meet the more onerous obligations of risk assessment as outlined in this consultation. Aside from the burden of time across business in meeting the requirements, it is our belief that, at minimum, we would be required to appoint two senior staff at the cost of up to £140k per annum, plus support costs.

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

No.

Yours sincerely,

**Simon Fell**  
**Regulatory & Public Affairs Manager**