

CORRECTION SLIP

Corrections to the consultation document entitled ‘Proposed changes to Ofcom’s NIS Guidance focusing on Incident Reporting Thresholds for the digital infrastructure subsector’ published by Ofcom on 1 November 2022.

Introduction

1. On 1 November 2022, Ofcom published a consultation document entitled ‘Proposed changes to Ofcom’s NIS Guidance focusing on Incident Reporting Thresholds for the digital infrastructure subsector’. That document contains (on pages 19 and 20) a table (“**Table 7**”) described as “setting out examples of incidents unreported to Ofcom between 2020 and 2022”, as follows:

(Page 19)

Table 7: Examples of incidents unreported to Ofcom between 2020-2022

DI Provider	Date	Service Degradation	Ofcom’ Estimate of Impact to ‘Number of Users’ as per Ofcom’s calculations (see Annex A4 on methodology)	Duration	Geography
A ¹⁴	17 July 2020	50%	18.75 million	27 mins	UK wide
B ¹⁵	18 August 2020	100%	8.28 million ¹⁶	17h 19 mins	Primarily London but UK wide impact to downstream dependencies
C ¹⁷	23 March 2021	No data	No data	13 mins	London
D ¹⁸	23 March 2021	No data	No data	16 mins	London
E ¹⁹	21 December 2021	10%	61.73 million ²⁰	30 mins	UK wide

(Page 20)

F ²¹	5 November 2020	No data	61.73 million ²²	6 days	UK wide
-----------------	-----------------	---------	-----------------------------	--------	---------

2. Since our publication of that document, it has come to our attention that Table 7 contains certain errors which we explain further below.
3. While Table 7 makes clear that various impacts of those incidents are impacts estimated in our reasonable opinion from the methodology and calculations set out in Annex 4 to the document, given these errors we consider that it is appropriate to remove Table 7 in its entirety, together with the associated paragraphs in 3.34 to 3.36 and Annex 4. We are not reissuing our consultation document to reflect these changes, but our consultation document should be read accordingly.
4. The information contained in that Table 7, together with the associated paragraphs in 3.34 to 3.36 and Annex 4, was intended to complement our broader reasoning in the consultation document regarding the increased dependence on essential services in the digital infrastructure sub-sector for the functioning of the internet.
5. For the avoidance of doubt, in light of our removal of that information, we confirm that we did not rely on that information in reaching our proposed incident reporting thresholds set out in Table 2 (on page 12) of the consultation document. Consequently, other than the changes set out in this note, we consider that it is appropriate to maintain the position set out in the consultation document in all other respects.
6. As regards to voluntary reporting itself, we maintain the position set out in paragraphs 3.31 to 3.33 of the consultation document that there has been minimal voluntary reporting over the years. We suspect that there might have been some incidents which could have been reported voluntarily to Ofcom. Our Table 7 (now removed) was simply seeking to illustrate this point.
7. As a result of this correction, we will extend our consultation closing date to 31 January 2023.

Explanations of errors and assumptions

We have explained above that we have formally removed Table 7, together with the associated paragraphs in 3.34 to 3.36 and Annex 4, from our consultation document and that it should be read accordingly. Despite our removal of Table 7, we wish to clarify the errors contained in Table 7 as well as to clarify some assumptions that we used in Table 7.

1. DI Provider A

- a) This incident was actually reported to Ofcom as a voluntary incident report, and it was therefore an error to have included it as an unreported incident in Table 7.
- b) **Ofcom's estimate of the potential impact to users in a worst-case scenario:** This was noted in the original table as 18.75 million. This was an error.
- c) In all other respects, information regarding DI Provider A was correct at the time of publishing.

2. DI Provider B

- a) This incident was also actually reported to Ofcom as a voluntary incident report, and it was therefore an error to have included it as an unreported incident in Table 7.

- b) **Ofcom’s estimate of the potential impact to users in a worst-case scenario:** This estimate was based on the possible maximum, potential impact to users, but that figure had not been calculated by reference to Provider B’s own specific figures. It was derived from calculating the population (users) of London in 2020 at approximately 9 million¹, and ONS reporting² that 92% of the UK population having access to the internet. This also assumed that of London’s population, at least 92%, have access to the internet.
- c) **Geography:** The incident was based on a site being in London and it was therefore an error to reflect it as “Primarily London but UK wide impact to downstream dependencies”.
- d) In all other respects, information regarding DI Provider B was correct at the time of publishing.

3. DI Providers C and D

- a) These incidents were also actually reported to Ofcom as voluntary incident reports, and it was therefore an error to have included them as unreported incidents in Table 7.
- b) The rest of the information was correct at the time of publishing.

4. DI Provider E

- a) **Ofcom’s estimate of the potential impact to users in a worst-case scenario:** Provider E’s webpage reported that the incident impacted around 10% of customers. The figure of 61.73m in Table 7 was intended to show our estimated impact on users potentially affected by the disruption of this incident in a worst-case scenario, but that figure had not been calculated by reference to Provider E’s own specific figures. Rather, it had been calculated using our estimate based on the maximum potential user impact that could potentially be anyone in the UK who has tried to access affected web or email domains. This impact could potentially equal the UK population (as a whole) multiplied by the percentage of users with internet access. Our estimates are therefore derived from the UK population – 67.1 million in mid-2020³ - and ONS reporting that 92% of the UK population has access to the internet⁴. Using these figures, 92% of 67.1 million equals 61.73 million users. To note, our methodology assumed the possible maximum estimate of user impact. We acknowledge that the actual impact to users may be much lower. In that regard, we note that the duty to notify incidents under regulation 11 of the NIS Regulations concerns the numbers of users actually (and not potentially) affected by the disruption of the essential service.

¹<https://data.london.gov.uk/dataset/londons-population#:~:text=London%27s%202020%20population%20was%209%2C002%2C488,population%20has%20passed%209%20million>

²<https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2020#:~:text=1.,aged%2075%20years%20and%20over>

³<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/annualmidyearpopulationestimates/mid2020>

⁴<https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2020#:~:text=1.,aged%2075%20years%20and%20over>

- b) In all other respects, information regarding DI Provider E was correct at the time of publishing.

5. DI Provider F

- a) **Ofcom's estimate of the potential impact to users in a worst-case scenario:** Again, the figure of 61.73m in Table 7 was intended to show our estimated impact on users potentially affected by the disruption of this incident in a worst-case scenario, but that figure had not been calculated by reference to Provider F's own specific figures. Rather, it had been calculated in the same way as for DI Provider E (see above).
- b) In all other respects, information regarding DI Provider F was correct at the time of publishing.