



GOVERNMENT OF MALTA

Government response to the Consultation on
*“Measures for High Common Level of Security of
Network and Information System Order”*

3 May 2019

*Ministry for Home Affairs and National Security
201, Strait Street, Valletta 1432*

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Executive Summary

Introduction and overview

1. A brief introduction about the subject.

As part of the EU Cybersecurity initiative the European Commission proposed the EU Network and Information Security (NIS) directive. The NIS Directive EU 2016/1148 is the first piece of EU-wide cybersecurity legislation. The goal is to enhance cybersecurity across the EU. The NIS directive was adopted in 2016 and subsequently every EU member state was obliged to adopt the directive into national legislation, which follows or ‘transposes’ the directive. EU directives give EU countries some level of flexibility to take into account national circumstances, for example to re-use existing organizational structures or to align with existing national legislation. The NIS Directive was transposed into local legislation through L.N. 216 of 2018.

2. The public consultation date.

Include the objective and purpose of the public consultation.

On 8 March 2018, the Government published a consultation paper setting the proposals to transpose EU Directive 1148 of 2016 into local national legislation. The objective and purpose of the public consultation included:

The proposed draft Legal Notice transposing EU Directive 1148 of 2018 concerning - *Measures for high common level of security of network and information systems Order, 2018*.

Designated “Operators of Essential Services” (OES) are required to take appropriate and proportionate security measures to manage risks to their network and information systems as well as to notify serious incidents to the relevant authority.

“Digital Service providers” (DSP), e.g. search engines, cloud computing services, online marketplaces and others as may be identified from time to time, are also required to comply with the security and incident notification requirements established under the Directive.

Potential OES, DSP, Stakeholder and/or interested party, has an interest to review the proposed Draft Legal Notice with the objective to transpose the NIS Directive into local legislation. Interested parties are required to provide comments and suggestion on how to ameliorate the proposed draft contents to ensure their rights are protected.

In summary the consultation covered issues related to, [a] the process to identify essential services, [b] a national Framework to manage implementation, [c] the security requirements for operators of essential services, [d] the incident reporting requirements for operators of essential services, [e] the requirements on Digital Service Providers as referred to in the Third Schedule, [f] the proposed penalty regime, and [g] the monitoring/Implementation structure of the directive.

3. This consultation sought views on:

- *the process to identify essential services*
- *the national Framework to manage implementation*
- *the security requirements for operators of essential services*

- *the obligations and incident reporting requirements for operators of essential services*
- *the obligations and requirements on Digital Service Providers as referred to in the Third Schedule*
- *the proposed penalty regime*
- *The monitoring/Implementation structure of the directive*

Responses to the consultation and process used to seek stakeholder views

This document is the Government Response to this consultation and sets out the Government's decisions on these matters.

4. The closing date of the public consultation. Which methods were used to receive the feedback. The total amount of responses. From whom you received the feedback.

The consultation closed on 11 April 2018. The consultation document was available online and responses were accepted electronically and on paper. In total, there were 11 responses. These were received from various critical sectors, other industry and the general public including Aviation, Banking and Finance, Communications/ Telecommunication, Financial Markets, Government, Industry, Public/Citizen, Security. A list of respondents can be found at Annex A (optional).

5. Include (if any) meetings with stakeholders and list who the stakeholders were.

A number of meetings with stakeholders, including the public and private sectors, were also held during the consultation period. These meetings have also informed our thinking and final decision.

Summary of responses and decisions

The following is a summary of the consultation responses received. We would like to thank all those who took the time to respond to the consultation and participate in stakeholder meetings around the consultation exercise.

6. Statistics.

- Total feedback received: 11
- Total feedback received by individuals: 1
- Total feedback received by organisations: 10
- Total feedback received through email: 11
- Total feedback received through online form: Nil
- Total feedback received by post: Nil

7. Summary of feedback received.

A majority of respondents, acknowledged the draft proposal providing/suggesting a number of amendments and/or clarifications to the proposed text. One of the respondents expressed disagreement claiming that the sector they operate in is excluded from the directive and suggesting amendments reflecting their concern.

8. Your assessment and the Government's decision (list the Government's decisions).

All suggestions and recommendations have been taken into consideration. Following consultations with the response providers all issues have been discussed with and reviewed by the Attorney General Office amending the draft text to complement the proposals made.

Implementation

9. When you intend to implement the decisions

The final draft was presented to Cabinet office for their due consideration. Cabinet approved the final draft on the 26 June 2018 and the transposition document was published and adopted with immediate effect on the 6 July 2018 as L.N. 216 of 2018.

Contact Details

If you have any questions regarding this response, please contact: onlineconsultations@gov.mt

Annex A: List of respondents

Organisation
Central Bank of Malta
GO p.l.c.
HSBC Bank Malta plc
Malta Air Traffic Services Ltd.
Malta Communications Authority
Malta Information Technology Agency
Melita Limited
Microsoft Malta Ltd.
National Security Authority
Vodafone Malta Limited
Private Individuals: 1