GARANTE
PER LA PROTEZIONE
DEI DATI PERSONALI

Data breach notification

4 April 2019

Giuseppe D'Acquisto

Outline

GARANTE
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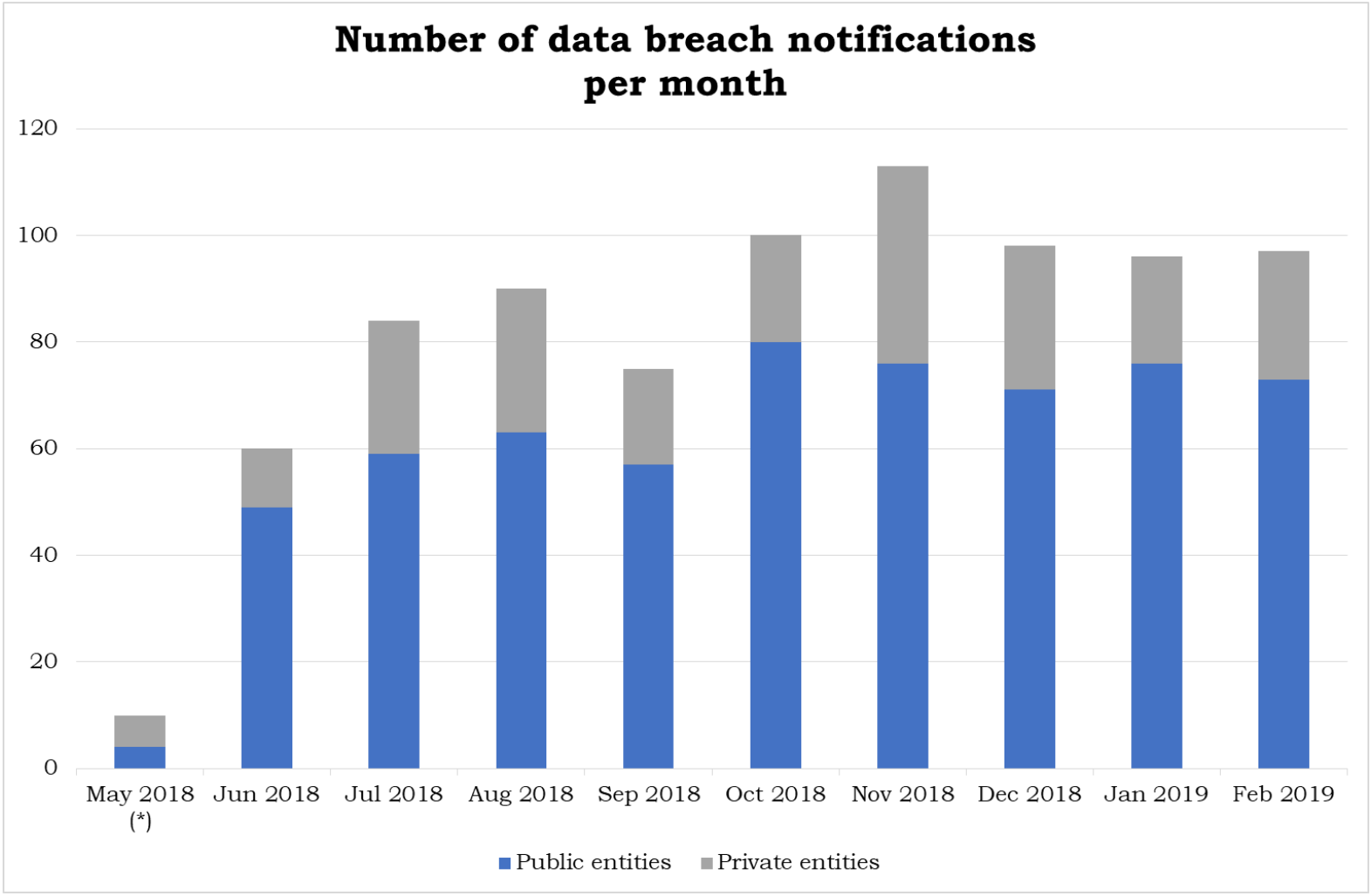
DEI DATI PERSONALI

- Statistics
- Workload: past, present, future
- Effectiveness
- A way forward (incentive compatibility, public interest and interplay between art. 32 and art. 33-34)

Statistics

GARANTE PER LA PROTEZIONE DEI DATI PERSONALI



(*) from 25 May 2018

Statistics

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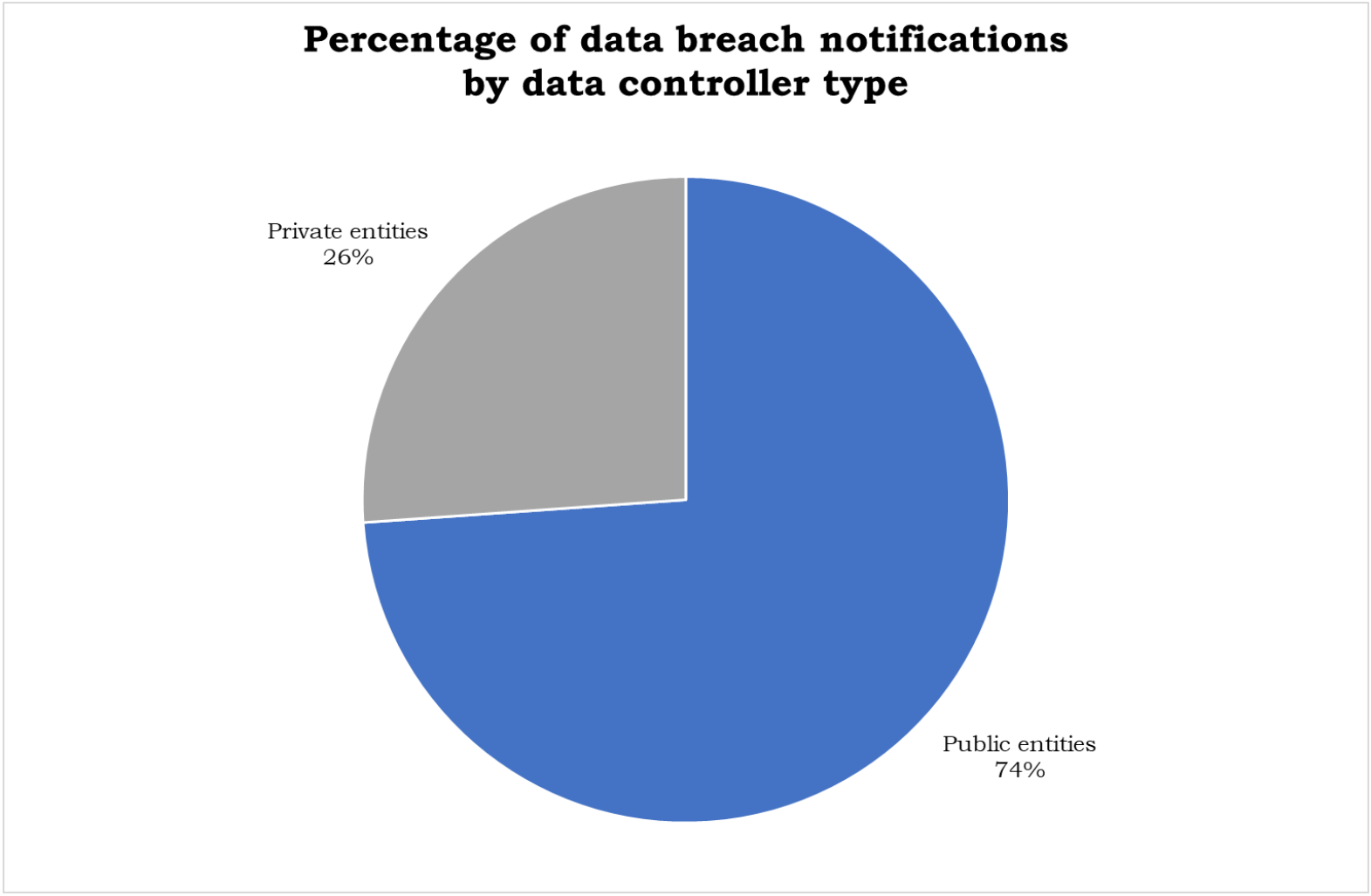

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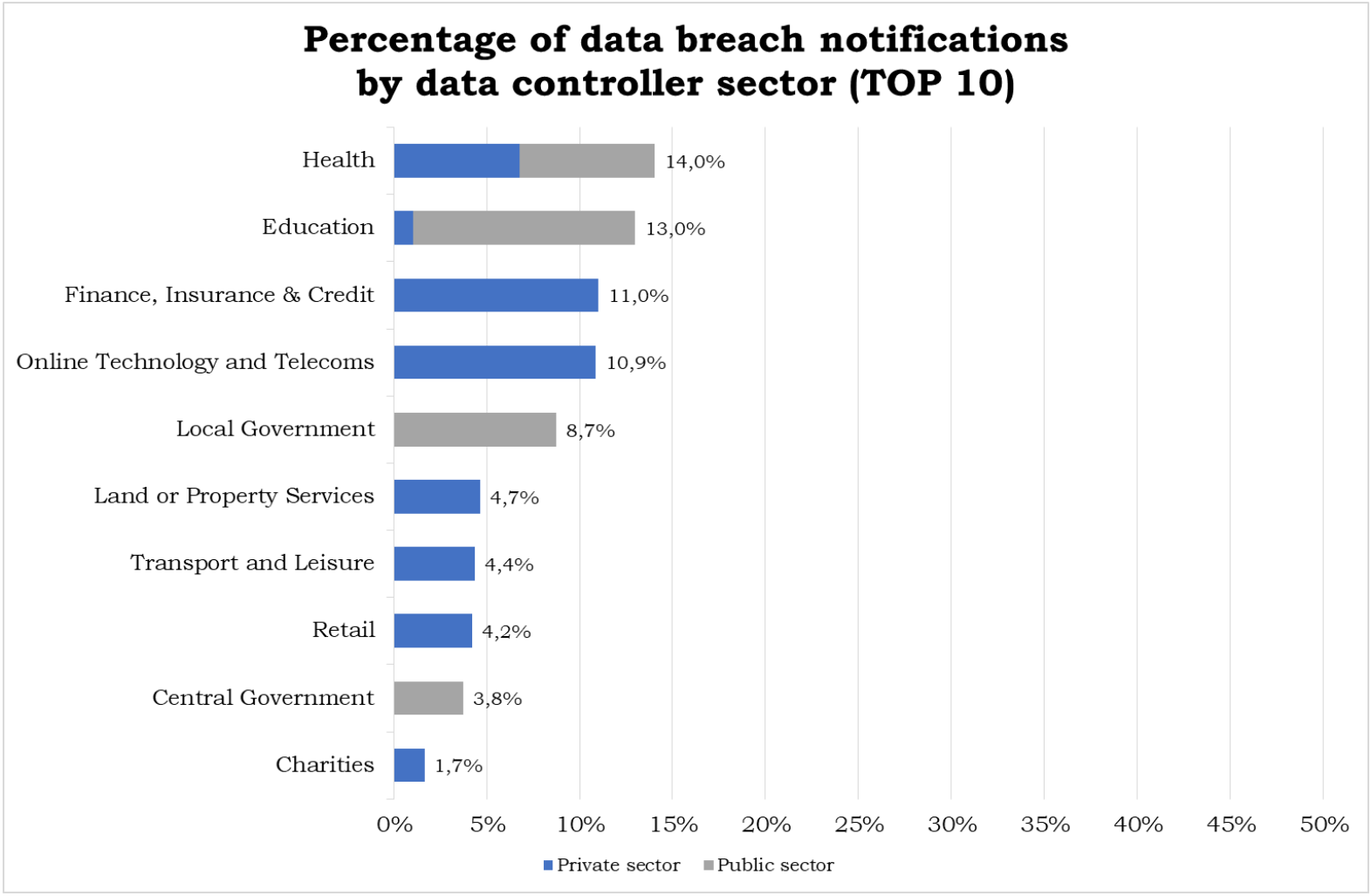

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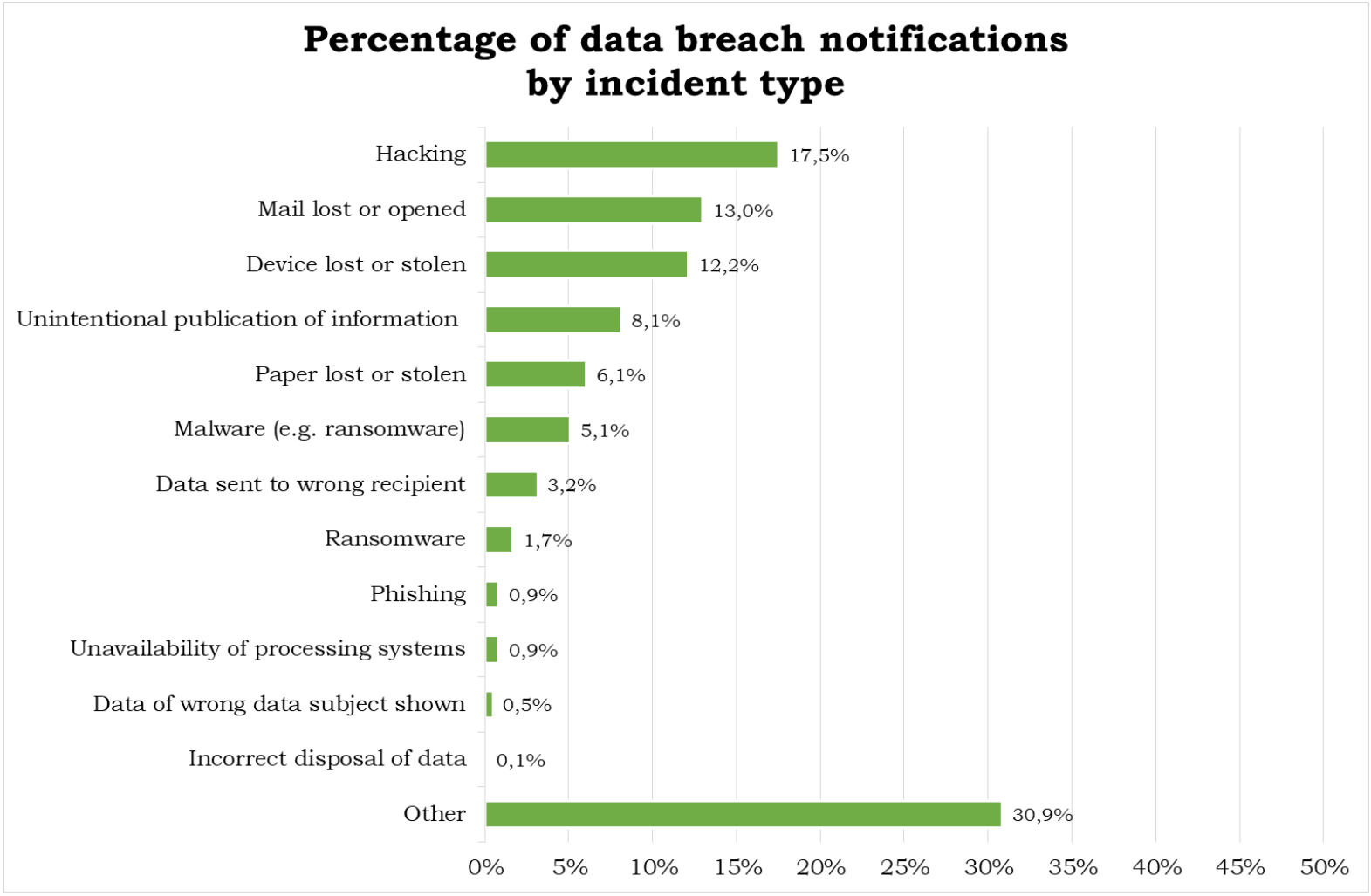

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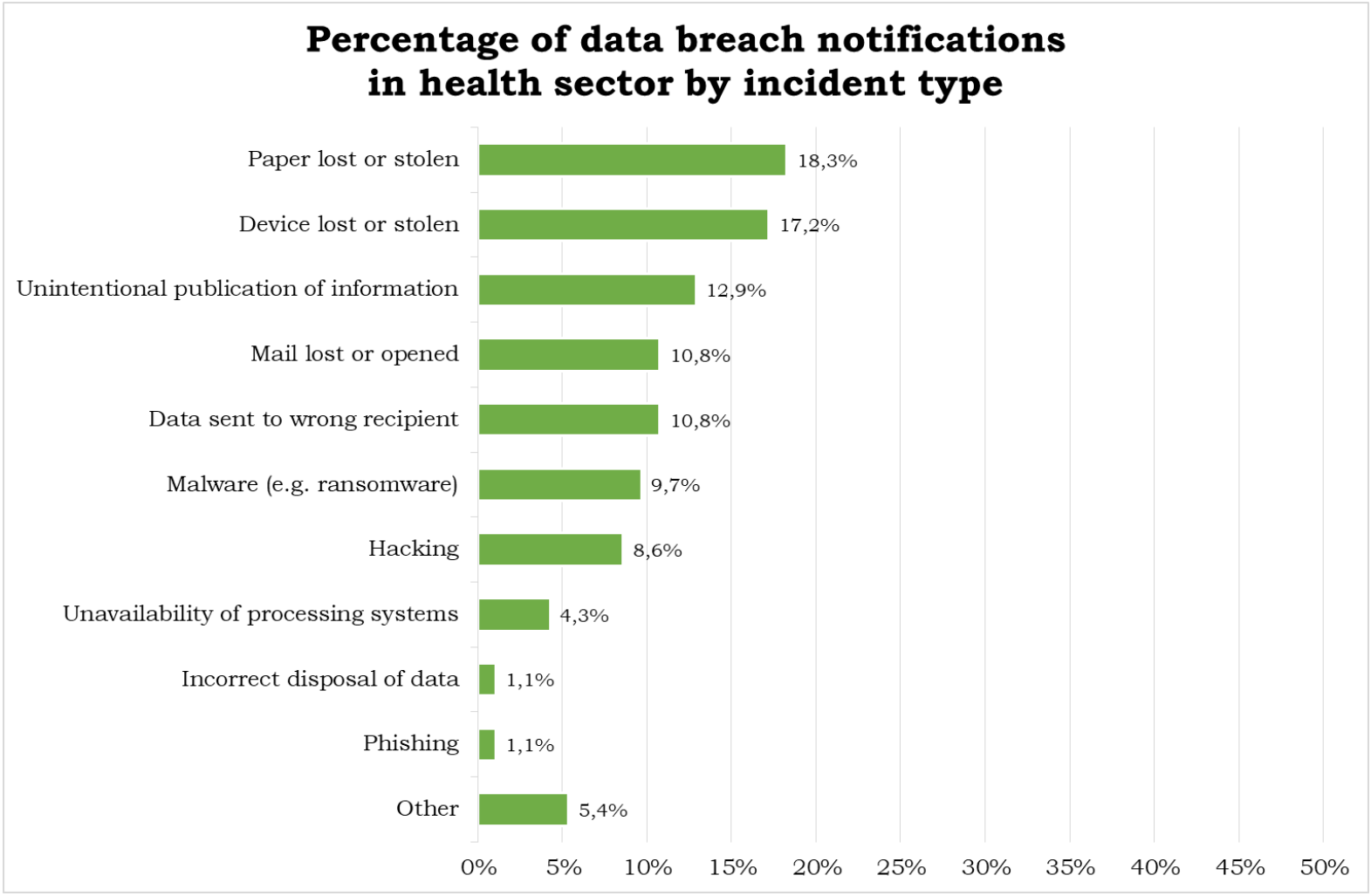

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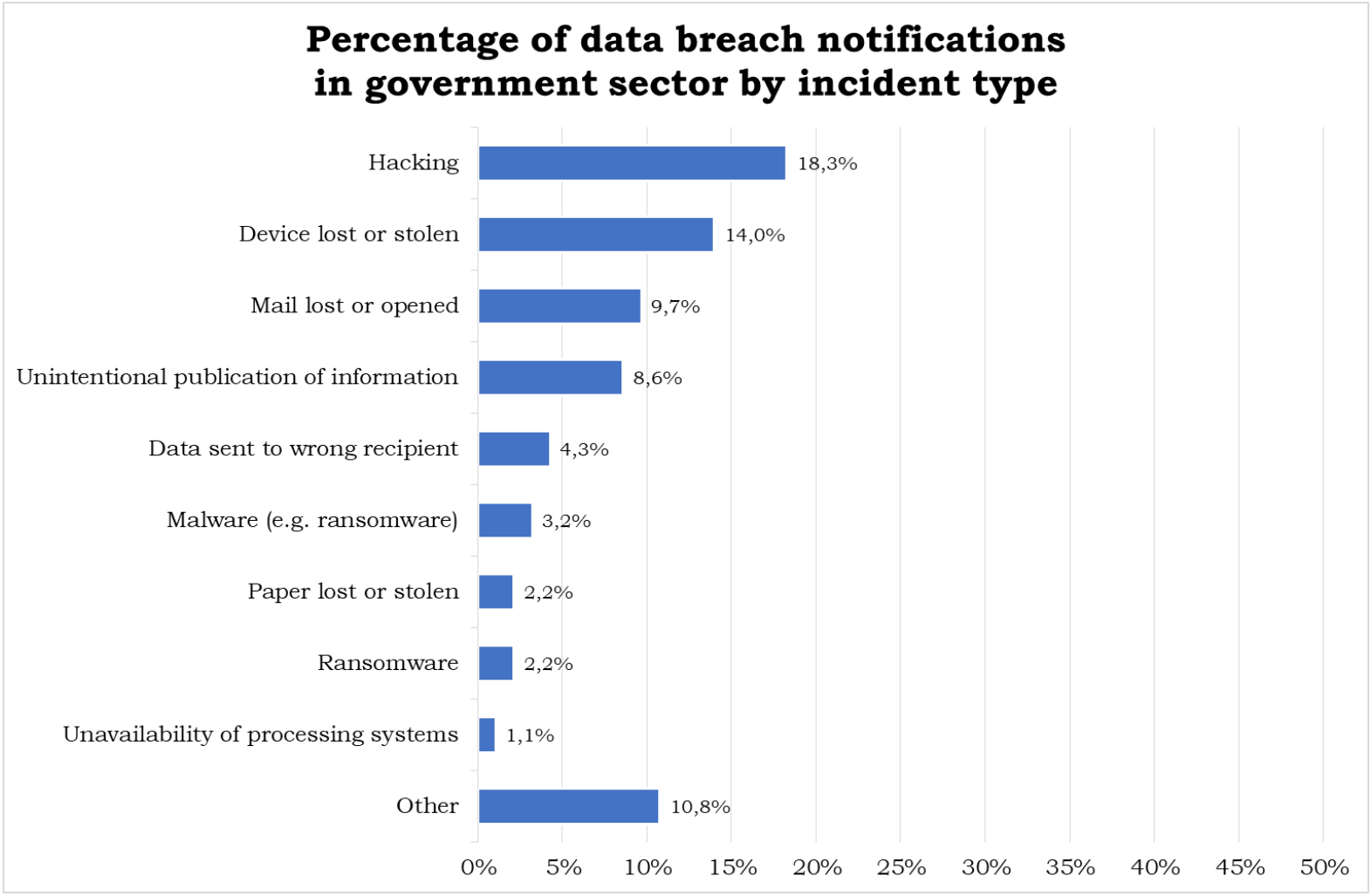

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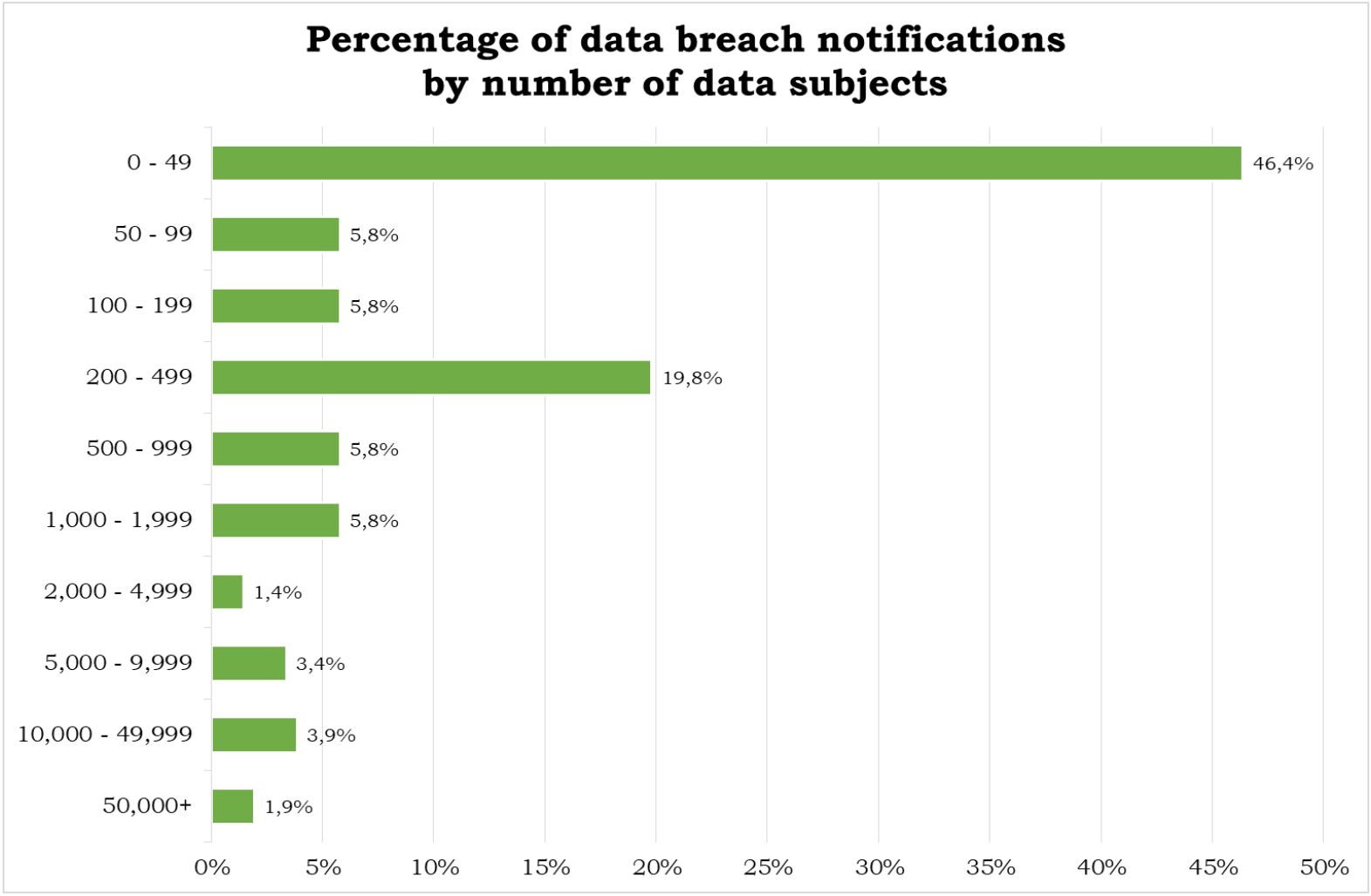

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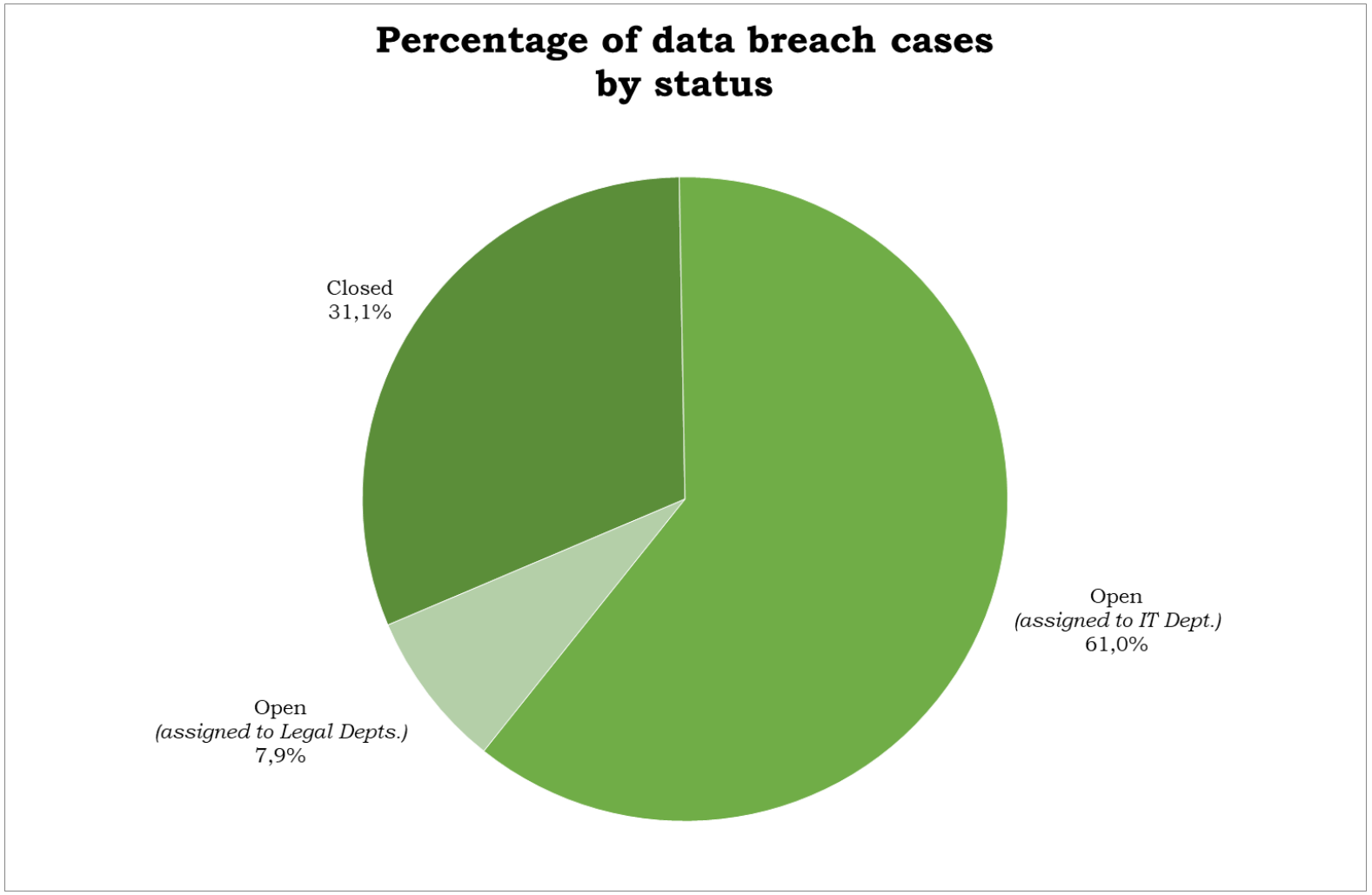

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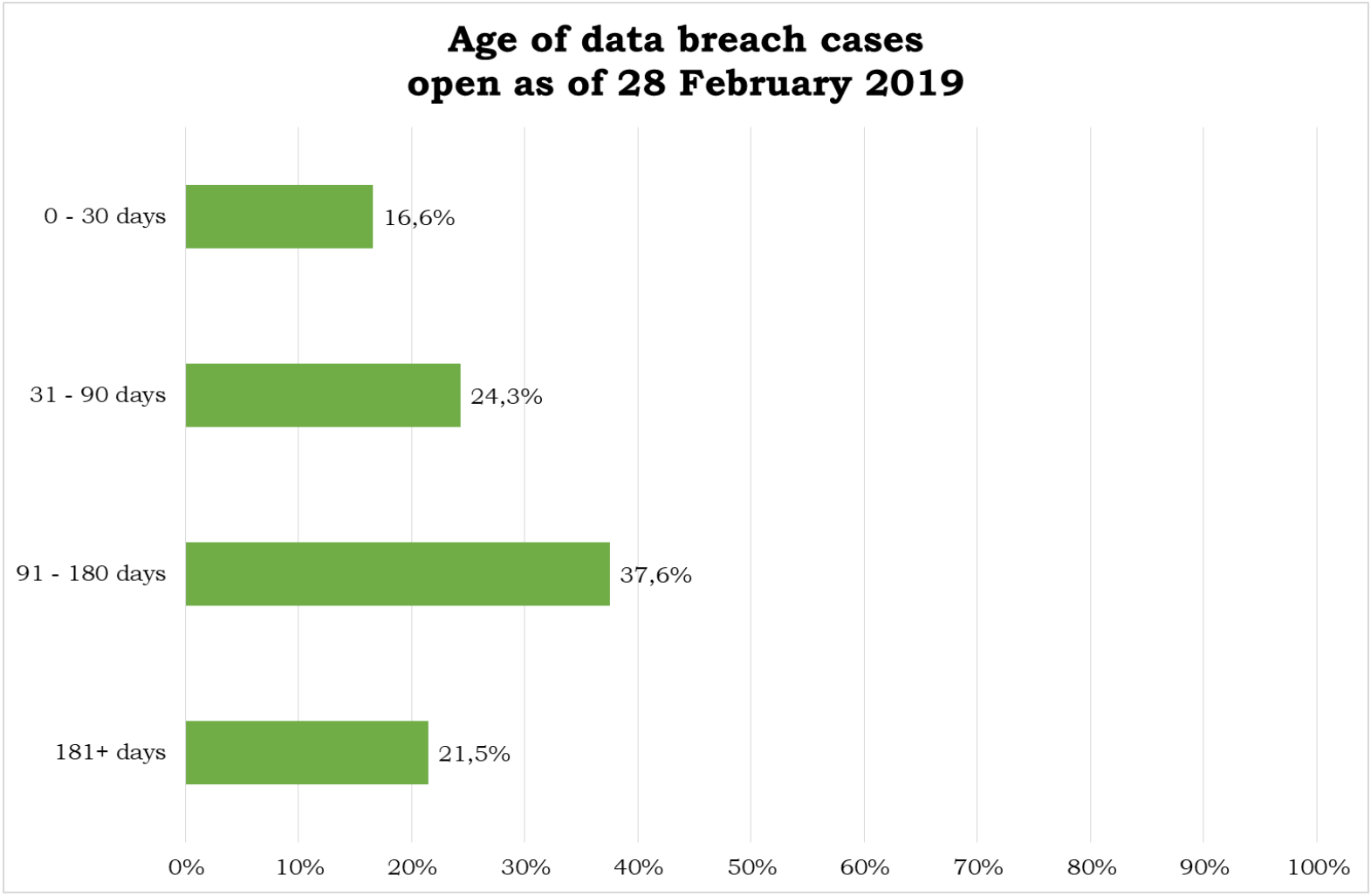

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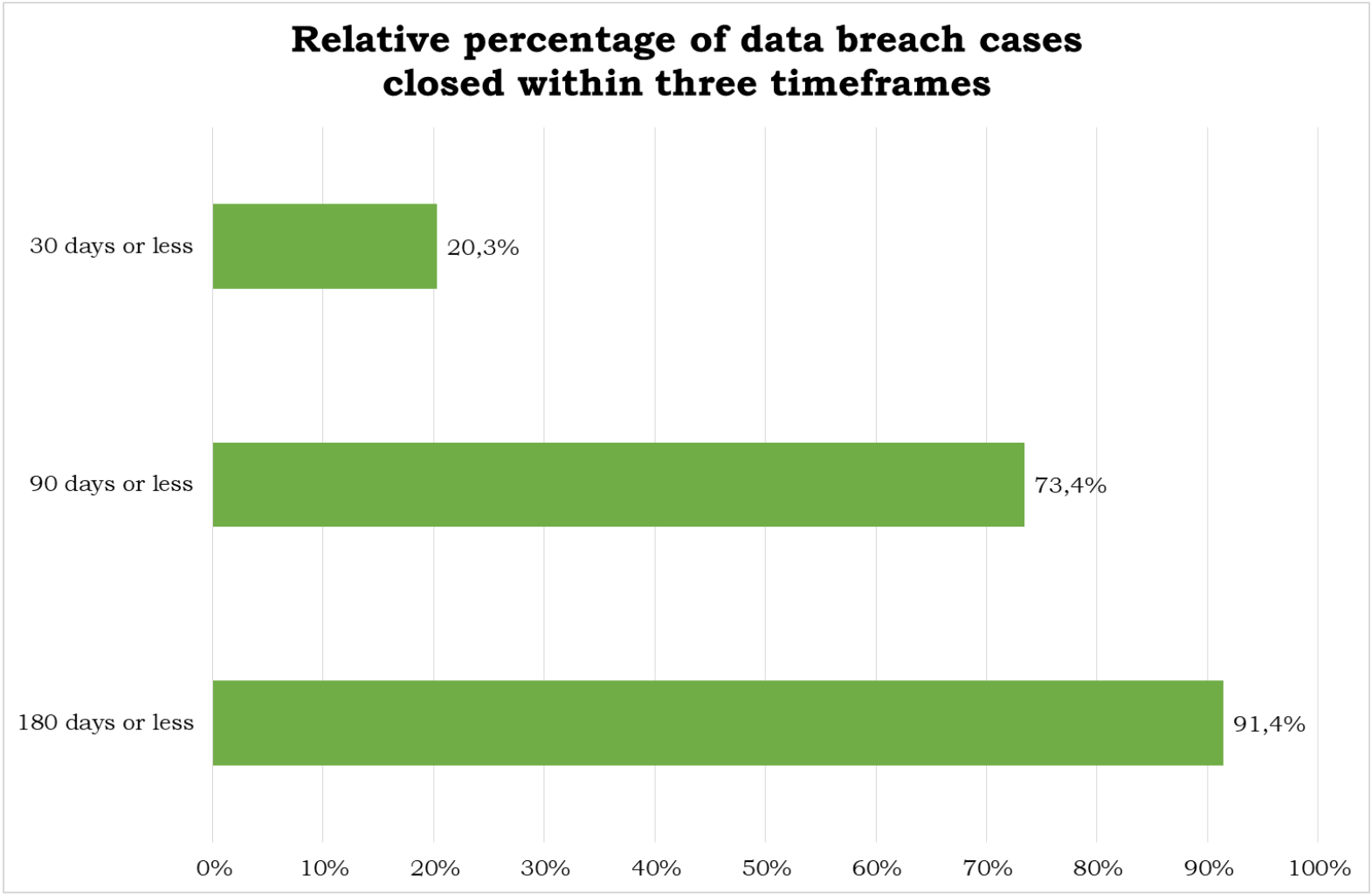

Statistics: some Italian DPA numbers

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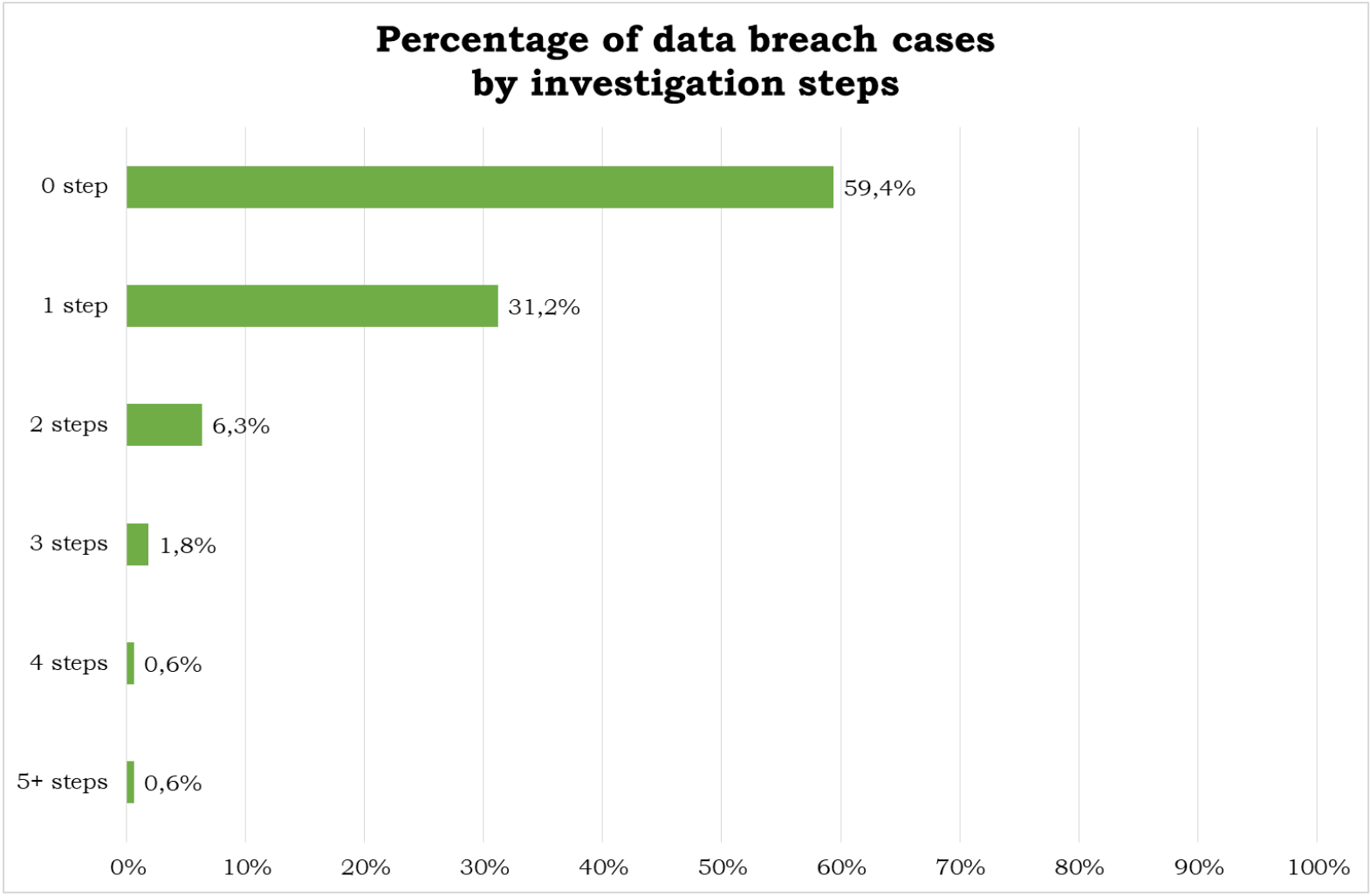

Workload: past, present, future

GARANTE PER LA PROTEZIONE DEI DATI PERSONALI

- 56% of businesses have suffered at least one security incident within the last year (Ponemon Institute, 2018)
- Let's make some computations
  - According to the national statistic bureau (ISTAT) in Italy we have 4 Million businesses
  - We should expect 2 Million security incidents
  - How many notified in 1 year? 2000 (conservative estimate)

Workload: past, present, future

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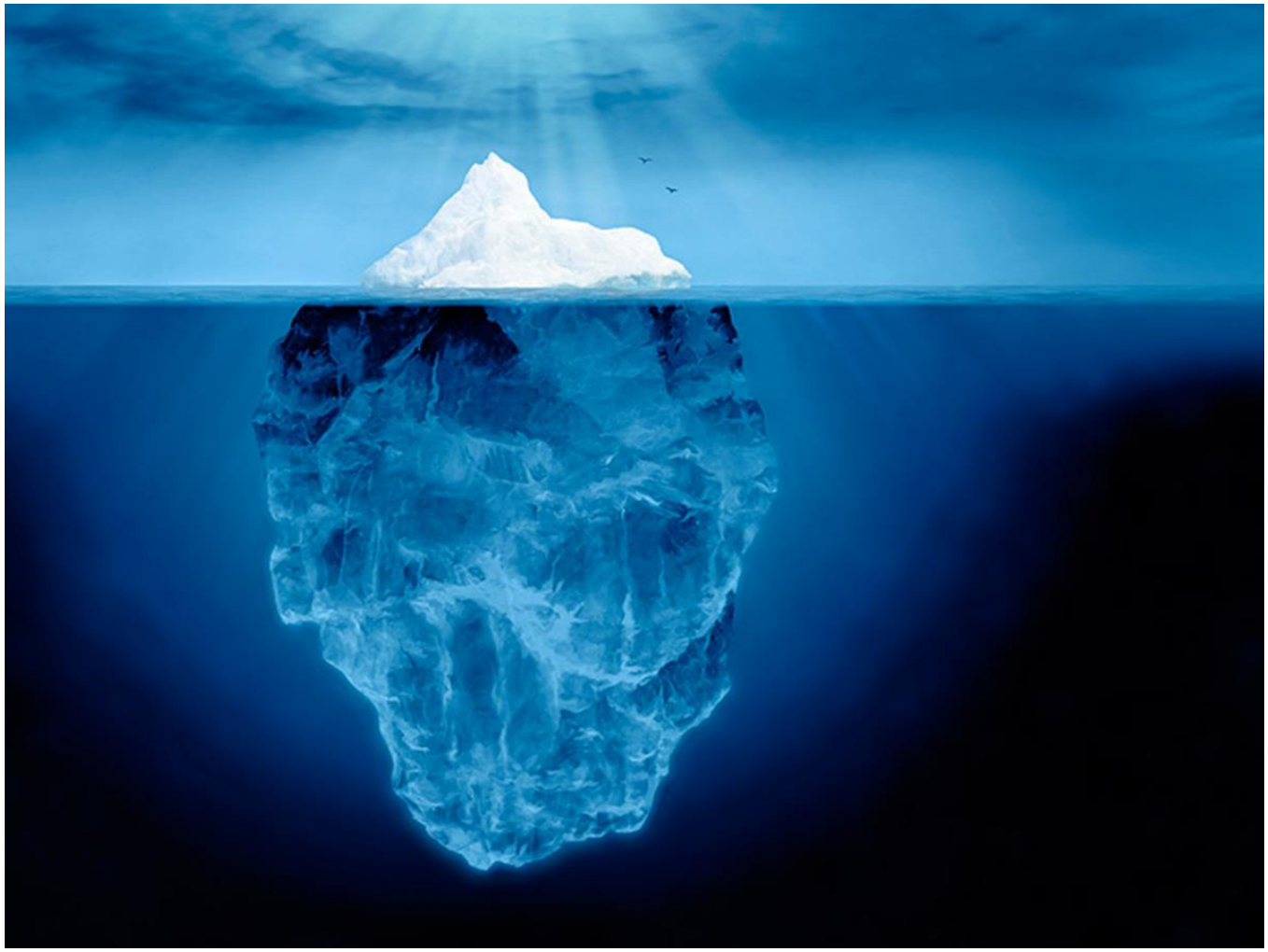

Workload: past, present, future

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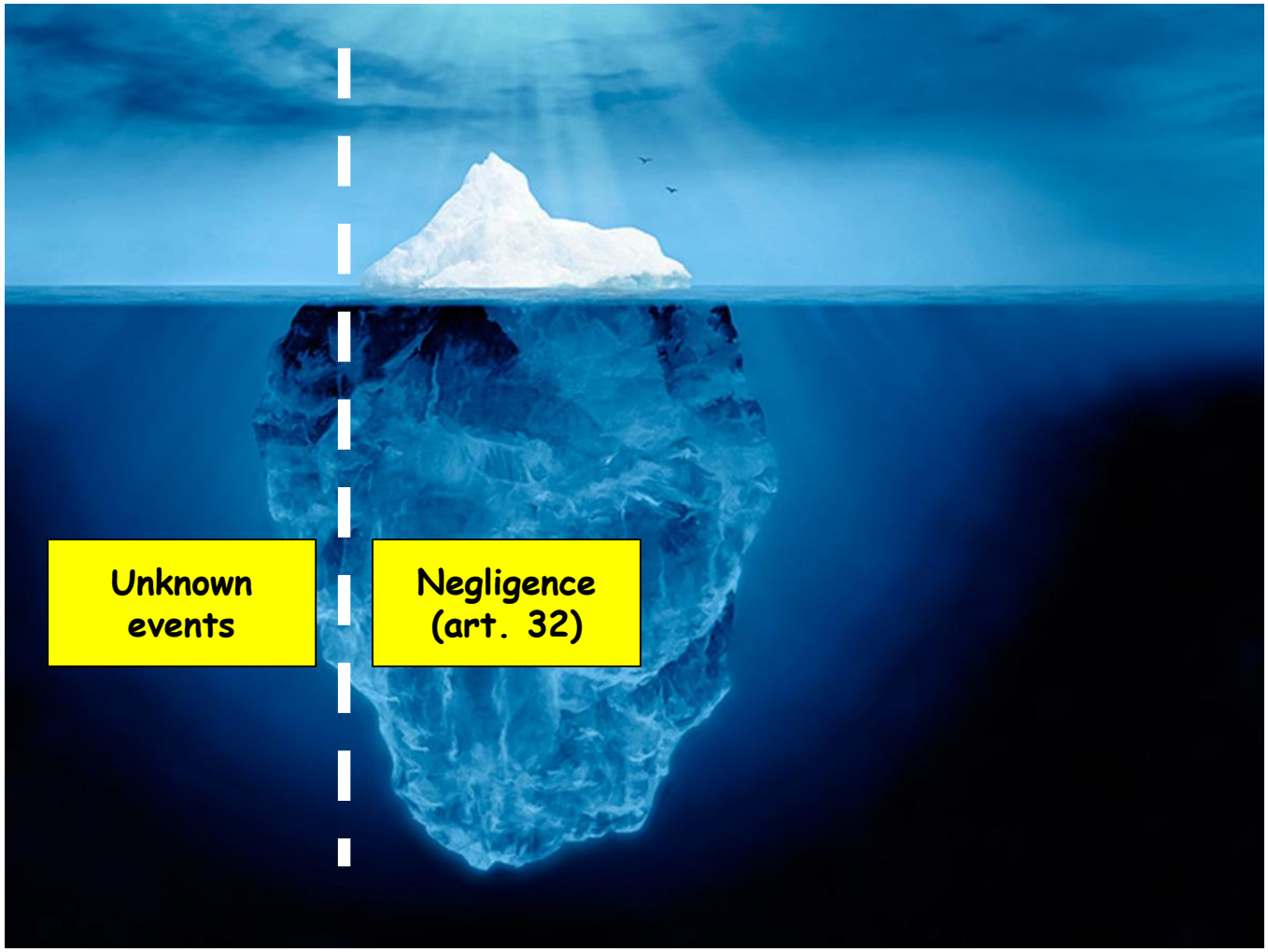

Workload: past, present, future

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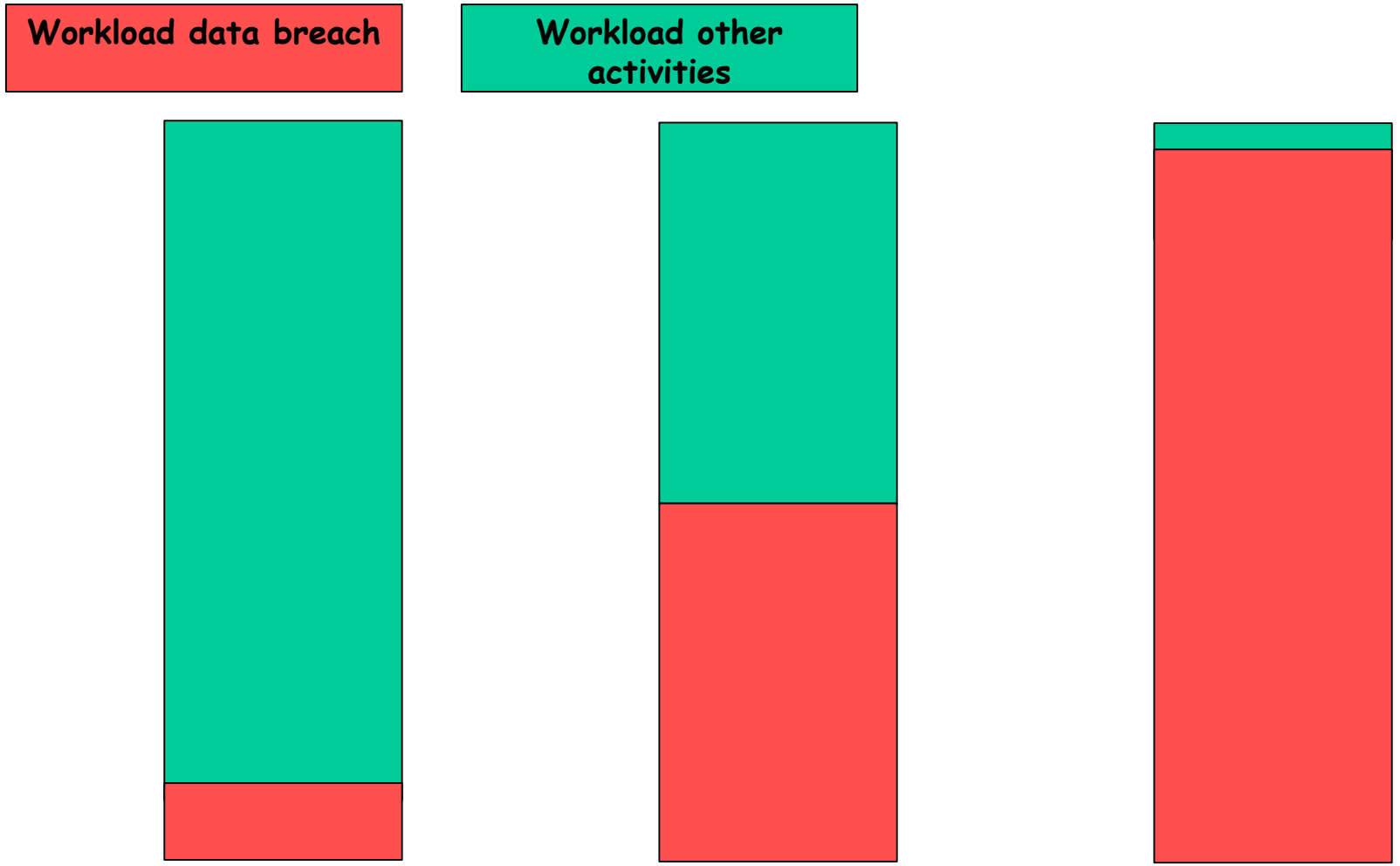

Effectiveness

Negligence

Investigate

Discard

Effectiveness

GARANTE PER LA PROTEZIONE DEI DATI PERSONALI

- When we discard
  - We assess the risk (where is accountability?)
  - We give «on call» assistance (not exactly our job!)
  - We open and close a formal case
- When we investigate
  - We can prescribe technical and organizational measures (requiring investments)
  - We can prescribe the communication of the data breach to the affected data subjects (that may impact reputation)
  - We can impose fines (requiring expenditures)

Effectiveness

GARANTE PER LA PROTEZIONE DEI DATI PERSONALI

- Consequences of discarding
  - Workload with poor societal benefit
  - It's a sort of public audit to private companies
  - Not manageable in «full iceberg» scenario
- When we investigate
  - We observe a slow down in notifications (it's just a correlation!)
  - DPOs who suggested their controllers to notify are disappointed

A way forward

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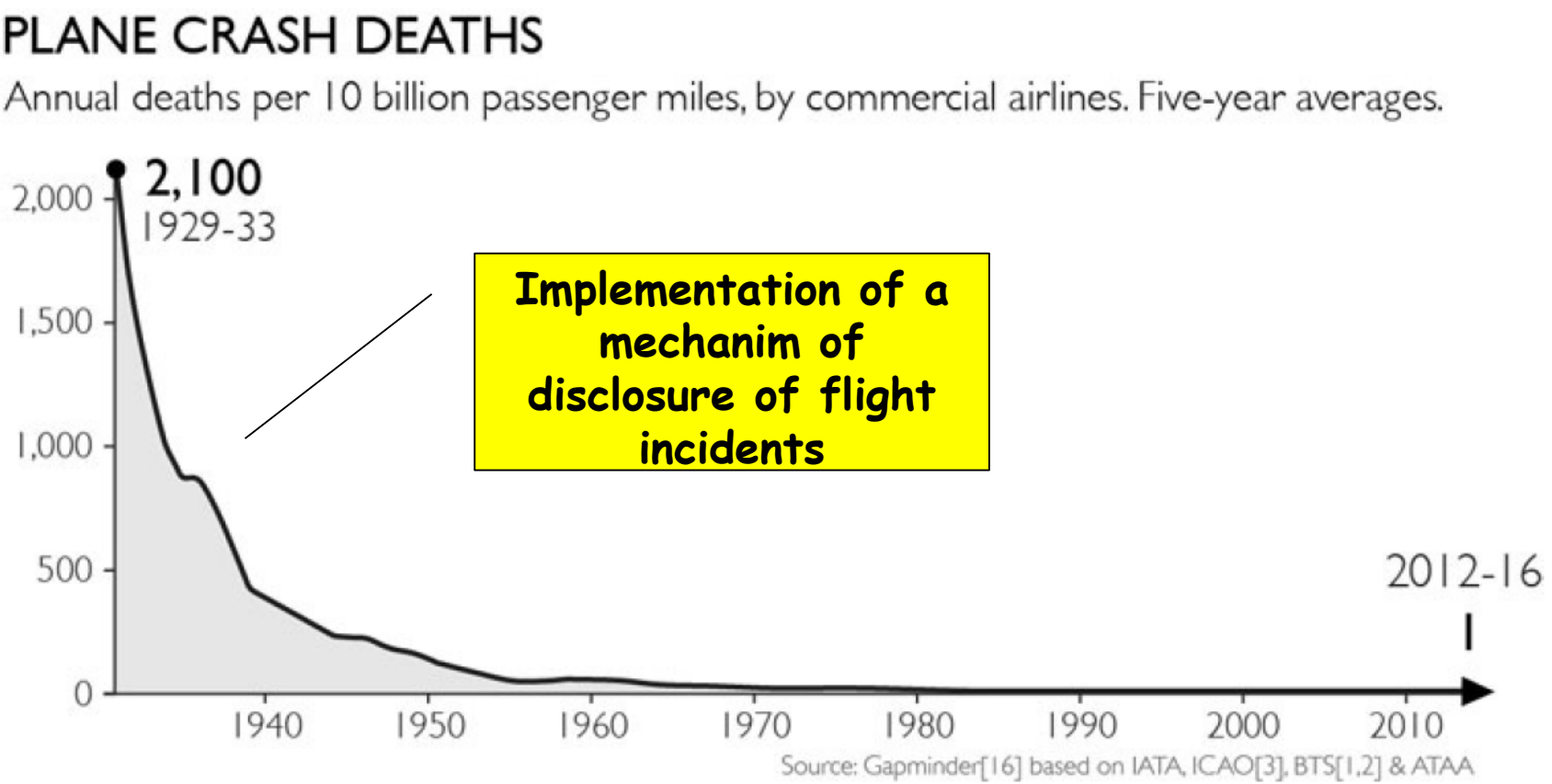

Implementation of a mechanim of disclosure of flight incidents

A way forward

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Notification in the public interest (of gaining knowledge on unknown incidents and increase trust in digital services)

Known

Known

Unknown

Known

A way forward

GARANTE PER LA PROTEZIONE DEI DATI PERSONALI

Interface

Negligence

Investigation

Conclusions

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- Notification is very useful to enhance trust and to protect individual's rights in data economy
- It is less suited for discovering negligence (few incentives)
- We don't need to restructure the mechanism, but we need to work on the «notification interfaces»
  - For notification we need trust between DPAs and controllers and very skilled authoritative DPOs
  - For discovering negligence we need to promote users' role and certification mechanisms, finding the right incentives for disclosure

Thanks

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