



House of Commons
Culture, Media and Sport
Committee

Nuisance calls

Fourth Report of Session 2013–14

Volume II

Additional written evidence

*Ordered by the House of Commons
to be published 26 November 2013*

The Culture, Media and Sport Committee

The Culture, Media and Sport Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Culture, Media and Sport and its associated public bodies.

Current membership

Mr John Whittingdale MP (*Conservative, Maldon*) (Chair)
Mr Ben Bradshaw MP (*Labour, Exeter*)
Angie Bray MP (*Conservative, Ealing Central and Acton*)
Conor Burns MP (*Conservative, Bournemouth West*)
Tracey Crouch MP (*Conservative, Chatham and Aylesford*)
Philip Davies MP (*Conservative, Shipley*)
Paul Farrelly MP (*Labour, Newcastle-under-Lyme*)
Mr John Leech MP (*Liberal Democrat, Manchester, Withington*)
Steve Rotherham MP (*Labour, Liverpool, Walton*)
Jim Sheridan MP (*Labour, Paisley and Renfrewshire North*)
Mr Gerry Sutcliffe MP (*Labour, Bradford South*)

The following members were also a member of the committee during the parliament:

David Cairns MP (*Labour, Inverclyde*)
Dr Thérèse Coffey MP (*Conservative, Suffolk Coastal*)
Damian Collins MP (*Conservative, Folkestone and Hythe*)
Alan Keen MP (*Labour Co-operative, Feltham and Heston*)
Louise Mensch MP (*Conservative, Corby*)
Mr Adrian Sanders MP (*Liberal Democrat, Torbay*)
Mr Tom Watson MP (*Labour, West Bromwich East*)

Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at www.parliament.uk/cmscom. A list of Reports of the Committee in the present Parliament is at the back of this volume.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some of the written evidence are available in a printed volume.

Additional written evidence is published on the internet only.

Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Grahame Danby (Second Clerk), Kevin Candy (Inquiry Manager), Emily Gregory (Senior Committee Assistant), Keely Bishop (Committee Assistant) and Jessica Bridges-Palmer (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Culture, Media and Sport Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 6188; the Committee's email address is cmscom@parliament.uk

List of additional written evidence

(published in Volume II on the Committee's website www.parliament.uk/cms.com)

	<i>Page</i>
1 Mark Iliff	Ev w1
2 Baroness Thomas of Winchester	Ev w1
3 Miles Raven	Ev w1
4 Reg Webb	Ev w2
5 Andrew Page	Ev w2
6 Terry Pearce	Ev w2
7 Citizens Advice Bureau	Ev w3
8 Godfrey Philbin	Ev w6
9 Ian Clark	Ev w6
10 Lewis McCann	Ev w6
11 David White	Ev w7
12 Bryan Jefferson	Ev w7
13 Derek Cuthbert	Ev w8
14 Sandra Earle	Ev w8
15 The Data Governance Forum	Ev w8
16 Market Research Society	Ev w10
17 Margaret Cork	Ev w11
18 Simwood eSMS Ltd	Ev w12
19 National Autistic Society	Ev w13
20 John Collins	Ev w13
21 Saffron Fisk	Ev w15
22 Pinesoft	Ev w16
23 Eilidh Whiteford MP	Ev w17
24 trueCall Ltd	Ev w17
25 Communications Consumer Panel	Ev w21
26 David Robinson	Ev w27
27 StepChange Debt Charity	Ev w28
28 Tom Brake MP	Ev w32
29 Stuart Andrew MP	Ev w32
30 Toynbee Hall	Ev w33
31 Brookmead Consulting	Ev w34
32 CPR Global	Ev w39
33 J Birrell	Ev w40
34 Group Utilities	Ev w40
35 ITSPA (Internet Telephony Services Providers' Association)	Ev w41
36 John Thompson	Ev w43
37 Trevor Neal	Ev w43

List of unprinted written evidence

The following memoranda have been reported to the House, but to save printing costs they have not been printed and copies have been placed in the House of Commons Library, where they may be inspected by Members. Other copies are in the Parliamentary Archives, and are available to the public for inspection. Requests for inspection should be addressed to The Parliamentary Archives, Houses of Parliament, London SW1A 0PW (tel. 020 7219 3074). Opening hours are from 9.30 am to 5.00 pm on Mondays to Fridays.

Gerald Ramsay	Joyce Ophield	Mr & Mrs Howard
Ronald & Marilyn Thomson	David Lloyd	Catherine Newcombe
Dorothy Riddle	Barrie Pemberton	A Emblem
Sally Hamilton	Stephen Cross	Trading Standards
Frances Jones	Alan Gifford	Resilient Networks Plc
Howard Knight	Diane & Peter Berthelot	Jim Munro
Colin Smith	Graham Ashley-Carter	George Mudie
Phillip Roscorla	Gordon Bracey	V&P Cox
Joe Blamey	Patricia Wilding	Steve Smith
David Paul	Ann M Neal	Alan Donald
Mike Thompson	Ismene Durand	John & Pauline Hawker
E Hale	Ken Wallace	Phil Griffiths
Angela Horsfall	Matt Miller	Colin Randall
Ken Bailey	Claire Aynsley	Sheila Duncan
Martin Bird	David & Linda Allan	Eva Spencer
Judith Blackburn	Colette Ham	Hazel Carnegie
Dr Charles Moore	Joy Stillwell	Faith Knight
SSE Plc	Patience Eyre	Rosemary Hay
Jim Dalgliesh	Gail Hall	Alan Watt
T E O'Brien	Margaret Allott	Paul Trippett
John & Diana Dutton	Phillip Gilchrist	Lorraine Wallace
John Nixon	Angela Railton	Dave Greenhill
Rose King	Georgina Main	Richard Turner
Diana Cosford	Marcus Addison	Pat Uglow
Kathleen Purves	William Perry	R Millward
Ruth Wright	Karen Martin	Claire Milne
Sue Ward	Anthony Mallen	Alan & Pearl Eatough
National Council of Women	Nicky Gardner	Andrew Webb
Kenneth Pantling	Bill Dickson	Tim Harvey
P & J Brock	Jay Noble	John Wigmore
Nigel Bill	Keith Bourne	Mark Bates
Kate Spanchak	Nalin Shah	Sheila Phillips
Carol Reid	Stephen & Judy Fox	Ken Hooker
Herbert Laming	George Elliott	Neil Murray
Ann Crickhowell	Evelyn Matthew	David Mills
Sue Rawlings	Hubert Elffers	Mr W G Maxwell
Stu Sutton	Anthony Wilkinson	Jill Boyd
Brian Harvey	Margaret Hunter	David J Freeman
Angela Smith	John Doming	Barrie Wood
Dr Susan Lipscombe		

Written evidence

Written evidence submitted by Mark Iliff [NTC 001]

I welcome the committee's decision to look into this issue. I signed up with TPS several years ago, but during the last six to nine months the number of unsolicited calls has become higher than it was then. And that's after going ex-directory, which I never felt the need to do before.

I find it hard to relate to "nuisance" as a descriptor. My work includes computer programming, which requires a high degree of concentration. The cost of taking a phone call is higher than just the time it takes: picking up the mental threads, and maybe restarting the step that was interrupted, are real costs too.

I don't have many ideas for remedies, and I'm confident that the committee can improve on these:

- require mass callers to obtain a licence: it's a legal requirement for radio broadcasts, and listeners can opt out of those easily and instantly;
- ban mass calling from offshore: make UK residence a condition of the licence; and
- automatic fines—£100 per minute, say—for every call made where the mass caller cannot demonstrate consent.

Stealing time should be just as unacceptable as stealing possessions.

July 2013

Written evidence submitted by Baroness Thomas of Winchester [NTC 002]

I receive an unwanted phone call on my landline from a company on most days, and would probably receive more of these calls if I was in. Sometimes there is no-one there, and sometimes these are automated calls.

I am on the Telephone Preference Service.

As I am disabled, it is particularly annoying to have to stop what I am doing and answer the phone, especially if the phone isn't immediately to hand.

I was once so incensed I told the caller I'd take him to court, and was amused that he put the phone down before I did!

July 2013

Written evidence submitted by Miles Raven [NTC 003]

Please find below my missive in respect of the silent calls we have been experiencing for the last four months.

We started receiving silent calls from a Milton Keynes number (.....) in April this year. The calls were silent and happened at various times of the day starting at roughly 6:30am. There have, however, been calls at 3:30am, 4:30am and 5:30am. When the phone is picked up it is silent and after hanging up it normally rings back. If an attempt is made to ring the number back, the number is unobtainable.

We have been registered with the TPS for as long as I can remember, we are also ex-directory; this has obviously had no impact on the unwarranted calls to our home. We are a family of three, with a nine year old son and elderly parents who may need to ring us if the need arises, so understandably if the phone does ring at an early hour we would answer it in case our elderly relatives need our help; this has had a significant impact on our family life with undue distress and sleeplessness.

Initially I contacted my phone and ISP provider, Virgin Media, to ask them to block the number. After various to'ing and fro'ing with them telling me it would take seven days, then later, 21 days to block the number and nothing happening, I received a letter from them telling me there was nothing they could do. Subsequently I rang them and they said that they didn't have the facility to block numbers but BT do as they operate a different system!

I decided to look in to the matter further and found out that the TPS were not responsible for policing silent calls and that this was the responsibility of OFCOM, so I reported the matter through the OFCOM website, waited a day or so then rang them to find out what they would do to follow up this problem. You can therefore understand my mirth and irritation when the lady I spoke to at OFCOM told me "there was nothing they could do and I would need to change my number"!

In desperation I put the phone number in to Google to see if others were experiencing similar problems and there were a large number of complaints on bulletin boards and websites with exactly the same issues (see https://www.google.co.uk/webhp?source=search_app#sclient=psy-ab&q=01908609399&oq=01908609399&gs_l=serp.12...0.0.8420.0.0.0.0.0.0.0.0...0.0.0..1c..15.psy-ab.Oh_As3xzQ_U&pbx=1&bav=on.2%2cor.r_qf.&fp=9a303c08cdeb5d94&biw=1241&bih=606)

This debacle of events lead me to me writing to Ms Crouch to see what she could do to help. It is an on-going problem and one that appears to be shunned by the regulatory body, OFCOM, with the responsibility for policing it.

July 2013

Written evidence submitted by Reg Webb [NTC 004]

NUISANCE PHONE CALLS, AND CALL BLOCKING TECHNOLOGY

Those who advocate the use of call blocking technology, whatever its source, commonly promote it in terms of a protection for the elderly and the vulnerable.

While I am 66 years old and totally blind, I am also a self-employed musician who very much resents having his work flow interrupted by callers who range from unsolicited sales callers to criminal scammers. So, in general, I think that call blocking technology is essential to me, both as an expression of my right to a life as free of nuisance as possible, and as a private individual trying to get on with productive employment.

In seeking a general solution for the problem of nuisance calls, it would seem to me better to promote a solution which has accessibility built into it, rather than reinventing the wheel, and offering multiple solutions for different groups.

With this in mind, and with no financial interest in a particular company, I would advocate a solution built on the Truecall box, which enables me as a blind person to program a wide variety of options from my phone handset, following the unit's voice prompts.

I would be happy to give more detailed evidence, and/or enter into discussion on this issue, since I am a keen technology fan; but technology is only as good as it meets the needs of the user.

July 2013

Written evidence submitted by Andrew Page [NTC 005]

Can parliament do anything to tighten up the laws regarding nuisance calls since the TPS seems to be totally ineffective in preventing the vast number of unsolicited calls? I signed up to the TPS years ago and if anything the number of nuisance calls since then has increased rather than decreased.

I would like to see a law introduced which made it illegal a) to block the telephone number by those making calls and b) prevent companies passing on personal details to others whether or not for profit, without the written consent of the individual concerned.

I have lost count of the number of PPI calls I have received not to mention survey companies since I once made the mistake of participating in a survey. But as so many nuisance calls seem to originate from the Indian subcontinent and therefore not subject to UK law, perhaps it could be made the responsibility of the phone provider not to connect calls emanating from a blocked number. I feel sure that the technology must exist to enable them to do this in much the same way as spam emails can be blocked.

I do hope the committee can recommend some sort of action that would have real teeth since the proliferation of nuisance seems to be on an inexorable increase and I feel that the telephone companies will be reluctant to do anything without threat of some sort of sanction or fine that would hurt their profits.

July 2013

Written evidence submitted by Terry Pearce [NTC 011]

My submission includes experience from three different perspectives:

1. The most commonly cited fear of nuisance telephone calls (cold calls) is the exploitation of the elderly. My late mother suffered from early-stage dementia, and, combined with a trusting nature, she was an easy target for cold callers. I once called her during a double glazing demonstration at her home (she already had double glazing). I told the company representative (on speakerphone) that I would call back in ten minutes and did not expect him to be there. During my visits, she agreed to let me view her bank statements to ensure all was well. This often revealed new direct debits for services she didn't need. In one instance, she was scammed by a company claiming to be Sky, selling service contracts for satellite equipment. They turned out to be unrelated to Sky and I informed the local trading standards office. I printed a note which she left by her phone, "I am a member of TPS and you shouldn't be calling me" which she initially used, but the note would soon get lost in other paperwork. I also attached a "No cold callers" note to her front door. The vulnerability of my mother to cold calling was a constant worry.

2. My personal experience of cold calling is one of frustration and annoyance. I would often arrive home after a busy day, shower, get changed, spend 30 minutes preparing a tasty meal with fresh ingredients, and as I started to unwind and sat down at the dining table, I would invariably get a cold call. These primarily related to PPI and energy (solar panels or grants for insulation). I became tired of quoting registration of TPS as cold callers ignored this and TPS appears to be toothless. Even though I would ask callers to remove my details and not call again, the calls were relentless. Even where I made online enquiries, carefully marking the no calls/text/post boxes, these were often ignored. More worryingly, I would get calls from Indian call centres, which the ICO and TPS have no jurisdiction. Some callers were less than friendly, and in one instance, abusive. The Indian call centre call was usually a scam (claiming to be Microsoft and saying my PC had a virus). They would call at least twice every week, and after six months, I decided to take action.

I installed a TruCall device which screens calls. It acts in the same way as a spam filter on email—it only allows callers on your white list and blocks callers on your blacklist. Other calls are screened for you to decide. The transformation is a godsend, and I now have control over my calls. The ability to do so is empowering, and I feel like a helpless victim without it. (I should point out that I have no relationship with TruCall other than being a very satisfied customer).

I also receive nuisance text messages on my mobile, which I can block after the initial nuisance text. But I always wonder, how did they get my details? Who has my number?

The recent success of the ICO in punishing cold call companies is to be welcomed, but I feel that there should be an easier way to log nuisance calls. At the moment, each nuisance call has to be separately logged, with much repetitive information. A central resource like Who Calls Me? www.whocallsme.com would streamline this process.

3. As a professional sales account manager in the technology sector, I have very strong views on cold calling. A company that has to cold call to win business says a lot about the company, ie they are prepared to annoy 95% of their contacts to win 5% of the business. Cold calling is labour intensive and takes up valuable time in business. In my earlier sales career, I would often be told “You’re the 12th cold call this morning to the IT Manager.” Why companies think that this is good practice is beyond me. On the rare occasion I receive a business cold call in the office, I ignore their product and challenge their sales strategy. The book “Never Cold Call Again!” by Frank Rumbauskas sums up the whole approach to winning business. There is no place for cold calling in the 21st century, as there are more ethical and effective ways of reaching your target market.

August 2013

Written evidence submitted by Citizens Advice Bureau [NTC 012]

ABOUT CITIZENS ADVICE

The Citizens Advice Service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination.

The service aims:

- to provide the advice people need for the problems they face; and
- to improve the policies and practices that affect people’s lives.

The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from more than 3,500 locations in England and Wales, including GPs’ surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particular dispersed groups.

In 2011–12 the Citizens Advice service in England and Wales advised over two million people on nearly seven million problems. Debt and welfare benefits were the two largest topics on which advice was given.

NUISANCE CALLS AND TEXTS

Introduction

We welcome the opportunity to provide evidence to the Culture, Media and Sport Committee as it considers its inquiry into nuisance calls.

Almost everyone in the country with a phone has at some point been on the receiving end of a nuisance call or a nuisance text. They are irritating at best but they can cause alarm and distress to people who receive them.

Recent Ofcom research shows that consumers receive on average two nuisance calls per week with a quarter receiving more than 10 a month.¹ Research carried out by Citizens Advice last year found that nine in ten people surveyed had received nuisance calls and texts within the previous 12 months.²

In 2012–13, the Citizens Advice consumer service received over 30,000 complaints about cold calling, with over half of these accounted for by professional and financial services.

The inconvenience, irritation and alarm caused by the calls themselves is compounded by the harm caused to people who end up buying goods or services as a result of cold calling which they would not otherwise have purchased. An analysis of complaints to the Citizens Advice consumer service about financial services between January and February this year found that in 35% of cases, the initial contact appeared to have been unsolicited. 97% of cases involving pension unlocking—which is a highly damaging scam—and 56% of complaints about PPI claims management stemmed from cold calls. 30% of the cases involving cold calling were scams.

We also see evidence of a trade of people’s personal and bank details by lead generators and other firms behind cold calling, with one in seven people in the same analysis saying their details were passed from company to company. This is likely to vastly understate the true scale of the phenomenon and highlights the loss of control of people’s data once firms like lead generators and credit brokers have someone’s details.

Tighter regulation and enforcement

Citizens Advice has been calling for firmer enforcement action on firms who break the law around direct marketing. While we have been reassured by our conversations with the Information Commissioner’s Office and Ofcom that they take the issue seriously and are now doing everything in their power to tackle it we have always been clear that existing powers are not enough.

We welcome the proposal by the Department of Culture, Media and Sport to consider lowering the threshold for the Information Commissioner’s Office (ICO) to take action against a firm breaching the Privacy in Electronic Communications Regulation (PECR). At the moment the bar is set too high and effectively allows firms to break the law with impunity.

There has been a lot of recent effort to make sure the ICO and Ofcom are working closely together on this issue, and the decision to legislate to allow the two regulators to share data will help enforcement action.

Ofcom’s prioritisation of silent and abandoned calls in its work plan for this year is also a welcome development.

The action being taken by DCMS, ICO and Ofcom is welcome and will help tackle some of the immediate issues. These changes will not by themselves be enough to stop the problem though and we believe the Government will eventually find itself having to legislate further.

We also believe that the ICO should be able to take evidence provided by Citizens Advice into account when considering the detriment caused by particular firms, rather than relying solely on complaints from the public. While we can attempt to contact clients and ask them to make a complaint to the ICO, it is extremely time-consuming and an inefficient use of resources when we already have all the details the ICO would require. We would propose that organisations with super-complainant powers should be able to pass on consumer complaints in this way.

Improving the ability to trace calls and texts

Finding a way to improve the ability of communications providers to track exactly who is making a call is essential. At present this a challenge due to the ease with which the true phone number of a caller can be obscured. There are some perfectly valid reasons for doing this. For example, if a phone call originates from a call centre it makes sense for the number which appears to the person being called to be the main customer service number for that company rather than the call centre handler who made the call.

That it is easy to abuse this facility is an issue only because tracking a call with a so-called “spoofed CLI” can be very difficult. The answer is not to ban the presentation of a phone number which is different to the line the call originates from.

The ability to more easily trace a call is essential if the ICO and Ofcom are to be successful in making greater use of their existing enforcement powers as well as to make a success of any powers they or the mooted single regulator may have in future.

There is also an issue about spam texts sent from unregistered SIM cards. At present the only way to track these texts is by tracking which mobile phone masts were used to send the texts. Firms or individuals engaging in large scale nuisance texting are generally aware that they are breaking the law and take steps to evade their location being found, either by moving around or constantly using new SIM cards. We believe there is a case for examining the ease with which large quantities of unregistered SIM cards can be obtained.

¹ <http://media.ofcom.org.uk/2013/05/17/ofcom-research-reveals-extent-of-nuisance-calls/>

² http://www.citizensadvice.org.uk/index/policy/policy_publications/er_legal/the_claims_pests.htm

Consumer consent

One of the most problematic areas in the current regulations is around consent. PECR effectively allows firms to claim they have permission to contact someone when the person concerned has no knowledge or memory of giving their consent. In some circumstances the person will have accidentally ticked a box on a website which gives the company who runs the website permission to pass their details on to third parties. While this is legal it beggars belief that someone can be considered to have given consent to something when they believe they have not.

We believe that firms engaging in direct marketing should be required to be able to demonstrate that they have permission to contact every person they call or text under the opt-in parts of PECR. By law, recipients must have opted-in to receive marketing texts, recorded calls and faxes. They must opt-out to stop receiving live voice calls, either by informing individual companies they do not wish to be contacted again or by joining the Telephone Preference Service (TPS). In practice though, firms appear to be contacting people who have either not given their consent or have explicitly asked not to be contacted by joining the TPS. The ambiguity over consent plays an enormous part in enabling these firms to do so with impunity, and it is hard to consider it as anything other than an abject regulatory failure.

Tackling the issue around consent would also help reduce the market for and value of illicitly gained personal contact details since the risk of enforcement action would be significantly greater for any firm which used them for marketing purposes. Given that a murky industry of lead generating firms lurks beneath many nuisance calls and texts, putting a dent in their business model could only be a good thing.

Claims management companies

While tightening up regulation and enforcement of breaches of PECR will help reduce the incidence of nuisance calls and texts, we believe there is a case for restricting the ability of firms in some sectors to engage in direct marketing in the first place.

Chief among these are claims management companies (CMCs), who have spent the last few years bombarding the public with endless calls and texts exhorting them to reclaim mis-sold PPI or claim compensation for personal injury for example. PPI CMCs in particular have come to the fore in the last few years and show little sign of abatement given that the pot of money set aside by banks to pay for consumers' compensation continues to rise towards £20 billion. Ofcom's recent study of landline nuisance calls found that a quarter of all nuisance calls and half of unsolicited sales calls were from PPI CMCs.³ The same research found that 97% of people who received PPI calls found them to be "annoying".

Consumers are harmed by CMCs not only by their persistent and often obnoxious marketing efforts, but also by their conduct. In the PPI market in particular, they are extracting fees of at least 25% from consumers' compensation pay-outs for a process that people can do themselves without difficulty. They regularly fail to properly explain their fee structure, have been known to charge up-front fees and then refuse cancellation rights even after doing a sub-standard job, and inflate the likely compensation which can be expected. They also appear to automatically refer all cases rejected by the banks to the Financial Ombudsman Service (FOS), clogging up their processes and slowing down genuine appeals. Where their clients have an outstanding debt with the firm they are reclaiming PPI from, their compensation will be set off against the existing debt leaving the client to pay the CMC fees from their own pocket.

The Ministry of Justice Claims Management Regulator (MoJCMR) recently published new conduct rules, but it did not consider direct marketing or the relationship with lead generators. An argument we have encountered is that because debt management companies are not prohibited from direct marketing that it would be anomalous for a ban to apply to CMCs. We thoroughly disagree with this: debt management companies should be banned from direct marketing as well.

CMCs are constantly seeking out new markets. For example, we have begun to see cases involving attempts to claim compensation for mis-sold packaged accounts, a market where there may be a significant level of compensation due to consumers. Ironically, we also recently saw a case where a CMC had sent an unsolicited text offering help claiming compensation for nuisance calls. Any notion that the harm caused by CMCs will diminish as PPI compensation eventually tails off is likely to be naïve.

Given the persistence with which this market has resisted attempts to reform it and the significant level of detriment it causes, Citizens Advice believes there is a strong case for banning CMCs from direct marketing altogether. It would also be necessary to ban them from buying leads elicited from cold calling and texting by lead generators. The Ministry of Justice Claims Management Regulator already has powers to make rules to this effect.

August 2013

³ <http://media.ofcom.org.uk/2013/05/17/ofcom-research-reveals-extent-of-nuisance-calls/>

Written evidence submitted by Godfrey Philbin [NTC 013]

Despite having been registered with the Telephone Preference Service for several years, in the last few months we have experienced a growing volume of nuisance calls. Although many of the calls come from overseas call centres which are beyond the reach of the TPS, many are from UK businesses which have clearly made no effort to check the TPS listing.

Most callers can be got rid of in short order (though some persist, often claiming they are “not selling anything” and are thus not covered by the TPS). The point though is that we have already been disturbed and have had to stop what we were doing (including having an afternoon nap!) to answer a call we did not want.

About three months ago we decided that the situation was so bad—averaging one or two calls per day, but occasionally five or six unwanted calls—that it was worth trying a trueCall call-blocking unit. Not cheap (about £95 from Amazon) but it has turned out to be a really worthwhile investment. We made the initial effort to tell it all the numbers from which we would expect to receive calls—a bit of a slog, but once done we needed only occasionally to add numbers to the list, and everyone on the list got through as normal.

Since we installed trueCall the number of nuisance calls we have received has dropped to zero, since none of the callers tend to persist beyond the initial request to give their name so that we can decide whether to accept the call. It has been a godsend, and has done the job which the TPS is clearly incapable of doing. While it may seem unfair to have to pay to block nuisance calls, if the TPS isn't doing its job it seems to be the only option.

The only downside we have seen is that some calls we are happy to accept come from withheld numbers, so the caller has to go through the rigmarole of identification before being put through, but in the main this has not been too much of an inconvenience.

August 2013

Written evidence submitted by Rev Dr Ian Clark [NTC 014]

As a pensioner in my late 70s I regard all commercial calls (including so-called “surveys”) as not just annoying but an intolerable abuse. There have been weeks when they have averaged four or five per day, often silent, abandoned, or recorded. I cannot afford to ignore the phone when it rings, as I am on call for vulnerable neighbours with alarms, and there are many people in the community, as well as family, who need to contact me. I am also aware of elderly friends and neighbours (including myself) who could easily have a serious fall if summoned unnecessarily to the phone; and who are vulnerable to the very plausible forms of Scam on offer. (One neighbour, an experienced teacher, very nearly gave her bank details to a cold caller recently as, on her own rueful admission, she “was taken in”.)

I myself take a robust line with cold callers, including the use of an extra-loud dog whistle, appalling expletives not usually associated with the clergy, and (if I can get a word in) the threat of prosecution. One should not have to do this in one's own home? Many calls are made at antisocial hours. I have even had one at 3am offering to “mend my computer”—there was nothing wrong with it—admittedly from abroad.

The TPS is in my experience a total waste of time and space. I have been registered with them for decades and check periodically that my tel. no. is still on their list. I recently logged calls with all available details of date, time and organisation for a week and reported the whole lot. First TPS said I was not registered, then admitted that I was after all. They then said they were unable to do anything about any of the calls as there were “insufficient details”. It is in fact very seldom possible to obtain the caller's number by “1471”, still less get them to divulge their address. On occasions I have told callers that I am registered with TPS and they have laughed uproariously and said “So what?” I have sometimes reported what are clearly Scams to the police, who have duly logged the fact, but I have (understandably?) heard no more about it.

As a citizen, phone-user and tax-payer may I encourage Parliament to put a stop to this abuse as soon as possible.

August 2013

Written evidence submitted by Lewis McCann [NTC 015]

We receive an average of four calls a week which are unsolicited. Less than 1% shows a valid UK number via Caller Display. Some 80% of the calls show “International” and the balance “Withheld”.

Most callers have heard of TPS and hang up if you mention it, but obviously are not checking with the TPS database. Callers are mainly in connection with PPI, Green Energy/Insulation & SKY survey. Most callers seem to have an Indian accent. Most worrying are those who purport to be Microsoft Support who attempt to gain access to home computers and then demand credit card details to fix the non-existent fault. As an IT engineer they get short shrift!

We will usually just hang up on nuisance calls as engaging with them is pointless.

From our view point the TPS service is a waste of money as it is ineffective.

Call interception devices that block certain numbers are also useless against nuisance calls. We have family in Italy and their number comes up “International” so they would be blocked too.

Control of nuisance calls will only take place when the Telecommunications providers are forced to provide the calling parties number for International calls. As a retired Telecommunications Engineer this should be technically possible.

August 2013

Written evidence submitted by David White [NTC 016]

Despite being registered with the Telephone Preference Service (TPS) I found it necessary to spend £100 in March 2012 to purchase a “Truecall” phone screening device (and pay the necessary yearly subscription charge to track my calls). I also have to pay my telephone provider (Virgin) for Caller Display.

Since that time (about 15 months), according to my call log, we have received 190 unwanted calls on the above number, most of which were successfully intercepted by the “Truecall” device.

This corresponds to about three calls a week, from as early as 7am to as late at 11pm. In reality the calls tended to come in bunches—one or two a day over a few days, and then a few days break.

Many of the calls had withheld numbers or were obviously from overseas. Those that I initially listened to often referred to PPI mis-selling or were, in some cases, an obvious attempt at fraud (“I’m calling on behalf of Microsoft about a problem with your computer”).

In view of the fact that each of these calls would have interrupted me for no useful purpose, and probably elevated my blood pressure due to their (often) aggressive sales pitches, would the committee please consider including some of the technology provided by “Truecall” in the standard phone systems or, at least, provide a very simple reporting system with fast-response and forceful policing so that the perpetrators of these annoying calls can be at least curtailed or, preferably, stopped altogether. Surely this was the whole point of the TPS.

Before retiring in 2007 I worked from home and, even then, such calls must have cost me a considerable amount of wasted time (and money).

August 2013

Written evidence submitted by Bryan Jefferson [NTC 017]

This is a submission from one of a huge number of frustrated and angry telephone subscribers. My frustration is generated by the poor effectiveness shown by both Ofcom and ICO in dealing with this problem. They are at best reactive; at worst indifferent to the adverse effect of these calls on hundreds of thousands of UK citizens.

The current default position is that callers can safely assume that everyone for whom they can trace a number will be grateful for such a call. The default position should be that callers are allowed to call only existing customers who have opted to receive marketing calls.

The current default position is that callers can safely withhold their number, whereas this practice should be prevented by technical changes to all telephone networks. If you answered your door to an invisible person, you would close it very quickly.

The current default position is that the onus is on those who feel sufficiently aggrieved to ask the caller for further details and report the company for ignoring the fact their number is on the list provided by the Telephone Preference Service.

Despite the fact that thousands of citizens have filed such reports, the problem persists; therefore the current system is not working. Callers will often not co-operate with the person called and decline to give further details when asked. In some cases the mere mention of TPS causes the caller to end the call quite suddenly.

In a recent experience of mine I answered the phone to hear a recorded message telling me I qualified for a new central heating boiler for no charge, courtesy of a Government initiative. I was invited to press a key to be put through to someone who could help me. When I pressed the key, nothing happened so I hung up.

About five minutes later I received a call from a different number and the caller proceeded to ask me several questions about my central heating system. When she asked me whether I was in receipt of a means tested benefit, I replied “no” at which point she informed me I was not entitled to a free central heating boiler.

The only good outcome from this episode is that this company will not call my number again because I took this lady to task in a very robust manner. The onus should not, however, be on the person called to administer

stern reprimands to this type of caller. Nuisance calls should be better regulated and controlled by those elected to represent us; ie the UK Government and its subsidiaries.

August 2013

Written evidence submitted by Derek Cuthbert [NTC 018]

Hopefully this can still be included with your enquiry on the subject matter.

Please tighten up the law that covers “cold calling” as many companies attempt to get round the rules by stating that it is not a sales call but a survey or an information call but it is clear that they are only interested in selling their products if a customer responds.

Please make it illegal for a company or call centre to withhold their phone number when calling.

Please make it illegal for a company to call with a recorded message.

We receive on average two cold calls per working day. I have registered our land line with TPS and logged information about several companies with TPS but it appears not to make any difference.

August 2013

Written evidence submitted by Sandra Earle [NTC 019]

Earlier this year I was forced to contact Dan Rogerson MP to take forward a complaint with a company who, despite three requests from me, refused to remove my number from their records. They repeatedly phoned me until Mr Rogerson wrote to them and told them to stop. Since this I have received one further call from them, despite supplying my phone number for them to hold on an exclusion list.

My partner and I both have elderly mothers and do not feel comfortable switching the phones off, but this causes problems as he is a shift worker and frequently woken up by these calls. We have been registered with TPS for many years, but understand this does not exclude certain “random dialling” calls. We strongly feel that it should!

This week we have started to receive yet more of these calls from Yesterday we were called from this number at 11:57 and 14:07 and again today at 14:58 and 17:14. I am frustrated because unless we are available at these times we can't tell them to stop phoning us. Going on past experience, they will probably ignore this request anyway and I will have to involve my MP again.

I request that all companies are prohibited, by law, in making these phone calls. Why are they excluded from TPS? Could this be reviewed and changed? I do hope so...

August 2013

Written evidence submitted by The Data Governance Forum [NTC 021]

1.1 ABOUT THE DATA GOVERNANCE FORUM

The Data Governance Forum is a membership organisation which informs, connects and represents commercial and not-for-profit organisations which rely on personal information to drive value for their businesses. It was launched in April 2011.

As at 15 August 2013, The Data Governance Forum has 150 individual members from over 100 organisations covering a wide range of sectors, including charities, financial services, media, telecommunications, travel and leisure.

Members of The Data Governance Forum manage over 725 million customer records and have a combined turnover of more than £143 billion.

The Forum has held regular meetings with representatives of the Information Commissioner's Office to exchange views on the commercial use of personal information and the impact of regulations. A formal submission on the proposed Data Protection Regulation was made to the ICO on behalf of Forum members.

1.2 NUISANCE CALLS

As responsible brands, members of the Forum adopt best practice in the use of personal information within their marketing programmes. This includes ensuring data has been collected with appropriate permissions, that any outbound calling lists are screened against the Telephone Preference Service, and that systems used to manage the calling process are properly programmed to avoid silent or abandoned calls.

While it is impossible to prove that no Forum member is directly responsible for any of the activities under investigation, this issue is one of great concern to members as it degrades the value and utility of telephone

calls for marketing and customer management purposes. Any initiative which reduces the scale of nuisance and therefore enhances this channel for use by responsible, legitimate brands is therefore welcomed.

1.3 INQUIRY FOCUS AREAS OF CONCERN

1.3.1 *Consent*

Gaining permission from data subjects is at the heart of The Data Governance Forum's mission and informs best practice adopted by its members. Clarity about the purpose for which data is being collected and transparency about its use is central to compliance by members with all appropriate legislation.

At the same time, it is widely recognised that a commercial organisation can never fully know the potential uses to which an item of permissioned data might be put in the future. For example, product development and launches are an important area of focus for marketing but are hard to predict, especially in fast-developing markets such as technology, telecoms, internet services and broadcasting. Access to customer and prospect data is essential to the commercialisation of these new products and services.

Balancing this need for permissioned data with consumer protection is an ongoing challenge. The Forum believes that the majority of consumers understand the need for companies to use their personal information and are willing to provide this data provided there is a clear "value exchange".

To prove this point, research was carried out in 2012 among 2,000 consumers into the issue as part of the Forum's submission to the ICO. Appendix One shows a key finding—**the majority of consumers are willing to share their personal information and accept it will be handled securely and responsibly whenever organisations demonstrate that this data makes services more personalised.**

In certain circumstances, permission is obtained to cover these future uses which can not be fully defined at the moment of data capture. This is especially true for commercial data gathering companies who provide an important source of prospect marketing data. The reality of this should not be taken as proof that consent is "inadvertent" or "uninformed", only that there are limits to what can be explained and also that consumers may simply forget when and where they provided their personal information.

The Data Governance Forum welcomes any move to clarify the terms under which consent must be collected, such as those being proposed within the Data Protection Regulation. However, a move to a fully opt-in environment may have significant consequences on the performance of marketing and therefore the development of new products and services. It is also concerned that any new position taken by the Select Committee on consent should not cause confusion around the UK Government's response to the Data Protection Regulation.

1.3.2 *Telephone Preference Service*

Providing consumers with a mechanism to opt-out of unsolicited telemarketing calls and texts is an important component within data protection and a desirable element of permission marketing. Members of The Data Governance Forum are increasingly introducing Privacy Control Centres which allow their customers to view or amend their personal information and update their consent around marketing activities.

Providing prospects with a similar mechanism is by its very nature beyond the scope of individual businesses. It is therefore critical that the controls on offer are credible, efficient, reliable and accessible.

The Data Governance Forum contends that the current Telephone Preference Service is not fit for purpose and should be subject to a thorough-going review on the following grounds:

Data quality—the TPS file itself suffers from a number of inherent flaws which mean redundant telephone numbers or those which belonged to deceased subscribers are not removed. This has led to the cumulative growth of the file, increasing data processing costs and creating challenges in matching prospect marketing files against the source.

Registration process—TPS currently operates as a one-time registration. The Forum believes that consumers should be encouraged to update their registration on a regular basis—perhaps annually—in order to ensure the recency and relevance of what the file is intended to create: a clear picture of consent.

Innovation—little has been done to develop TPS both as a service to users of telemarketing or to consumers. As a result, there is relatively little pressure on "bad actors" in the marketplace to screen against the file or to demonstrate their bone fides to consumers by proving they have done this.

Competition—since its inception 14 years ago, the TPS has been operated by the same licence holder with no genuine competition at each five-year renewal period. It is critical to the credibility and value of the service that everything possible is done to support viable alternative providers in contesting for the licence the next time around.

The Data Governance Forum encourages the Select Committee to undertake an in-depth review of the Telephone Preference Service, including the definition of its operating parameters and the process by which a licence is granted to its controller with a view to encouraging innovation and competition in the process.

2. FURTHER STEPS

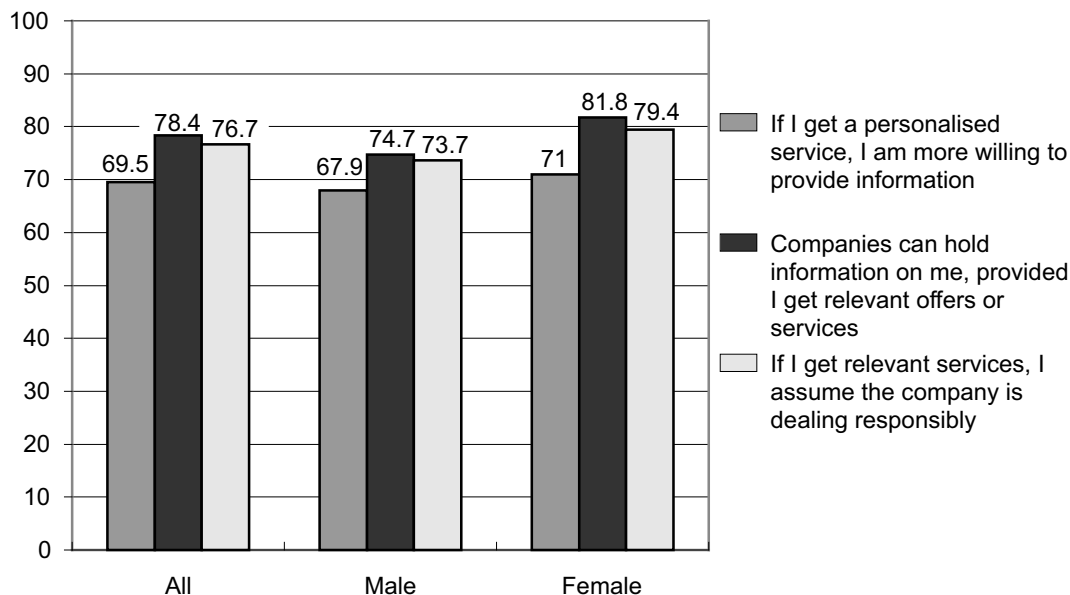
The Data Governance Forum would welcome the opportunity to provide the Select Committee with further evidence on behalf of or in company with its members.

August 2013

APPENDIX ONE

DATA GOVERNANCE FORUM CONSUMER RESEARCH FINDINGS

The Data Value Exchange



Written evidence submitted by the Market Research Society [NTC 022]

INTRODUCTION: ABOUT MRS AND TELEPHONE RESEARCH

MRS is the world’s largest association for market, social and opinion research. MRS supports best practice by setting and enforcing industry standards. All MRS Members and Company Partners must adhere to the MRS Code of Conduct, its associated regulations and compliance procedures. The commitment to uphold the MRS Code of Conduct is supported by the Codeline service and a wide range of specialist guidelines.

Telephone interviewing is used for about 15% of market, social and opinion research projects in the UK. It is used extensively in social research, to interview otherwise hard to reach groups and wherever a high quality random sample is required. It is imperative that this mode of communication remains open to research and that it not abused or subject to misuse.

ABANDONED AND SILENT CALLS

MRS responded to Ofcom’s consultations on revisions to its Statements of Policy in 2006, 2008 and 2010. We have incorporated the requirements of the statements aimed at preventing abandoned and silent calls in our *Regulations for the Use of Predictive Diallers*, making them directly enforceable by the MRS Market Research Standards Board against our 6,000 individual members and 470 Company Partners.

NUISANCE CALLS

Over the last 18 months we have noted a significant level of queries to the MRS Standards Department about calls purporting to be for the purpose of market research. This is in line with a general increase in complaints about telemarketers—the number of calls made to the Telephone Preference Service (TPS) about unsolicited cold calls was 9,803 in July 2012, a 147% increase on the 3,958 received a year earlier, according to figures from Ofcom.

TPS’ own complaint figures show that the number of complaints relating to “market research” has increased from 2,877 in 2009 to 5,263 in 2011, an increase of 83%. Many callers to TPS are referred onward to MRS. Very few of the calls directed to us via TPS relate to genuine market research calls, and none have been connected to breaches of the MRS Code of Conduct. For the most part the calls we receive relate to the use of lifestyle questionnaires, a form of data collection for use in direct marketing. It is frequently the case that we have to refer callers back to TPS, as their calls relate to direct marketing.

MRS is also aware of traders using the guise of research as a means of generating sales or fundraising. These methods are known to researchers as *sugging* (selling under the guise of market research) and *frugging* (fund-raising under the guise of market research). Such practices are unethical and contrary to the MRS Code of Conduct

Self regulatory provisions

Current self-regulatory provisions adhered to by responsible and reputable organisations specifically forbid the misrepresentation of sales or marketing as market research. The DMA's Direct Marketing Code of Practice provides in 3.22:

Members must not misrepresent themselves as carrying out research or a survey, or soliciting donations when the real purpose of the contact is to sell goods or services.

Similarly rule B21 of the MRS Code of Conduct requires researchers to provide a number of items of information at the beginning of interview, including the identity of the organisation making the call, the subject matter of the interview and its purpose (market, social or opinion research).

Consumer protection legislation

This is aligned with other consumer protection legislation such as Regulation 7(4) of the Consumer Protection (Distance Selling) Regulations 2000 (Statutory Instrument 2000 No. 2334) which provides that:

In the case of a telephone communication, the identity of the supplier and the commercial purpose of the call shall be made clear at the beginning of the conversation with the consumer.

MRS has also made representations to the Department of Business, Innovation and Skills to clarify its guidance on the EU Directive on Unfair Commercial Practices to make clear that sugging and frugging fall within practices banned by the Directive.

By sugging or frugging, traders use the appearance of conducting research, which is commonly understood not to involve any form of commercial message, to materially distort the economic behaviour of the average consumer to whom it is addressed. Consumers may feel obliged to provide information which is later used for sales leads or be drawn into purchasing a product or making a contribution as a direct result of the positioning of the commercial communication as a research exercise. Therefore MRS believes that these practices fall within the scope of the Directive.

Additionally, Annex 1, paragraph 22 of the Directive prohibits:

Falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer.

The essence of sugging and frugging is that the trader claims or creates the impression that they are not acting for purposes relating to their trade or profession, ie, they are acting in the capacity of researchers not traders. Therefore MRS believes that sugging and frugging are within the scope of this banned commercial practice which, under the Directive, is in all circumstances considered unfair.

Privacy Electronic Communications (EC Directive) Regulations 2003

In order to protect consumers from misleading commercial practices and protect the telephone network as a channel for research, MRS proposes that Privacy Electronic Communications (EC Directive) Regulations 2003 be amended to explicitly prohibit selling under the guise of research and any other activities masquerading as telephone market, social or opinion research (such as fund raising). Additionally, MRS proposes that that all telephone market, social and opinion research should be conducted in accordance with the MRS Code of Conduct. We have discussed this potential solution with the TPS, who have been supportive of this approach.

August 2013

Written evidence submitted by Margaret Cork [NTC 023]

I contacted my MP (Rt. Hon. Andrew Mitchell MP) in May 2013, to express my concerns with regards to unsolicited telephone calls and the nuisance they cause. He replied very promptly with a booklet (published by DCMS) to help me to try to avoid such intrusions into my home. All of these I already knew about.

He has now sent me a letter dated 12 July 2013 to give me your details in the event that I might wish to contribute to the Inquiry you are carrying out.

I hope that the following, which no doubt you have heard before, will give you some idea as to my feelings on this matter.

I regularly continue to receive telephone cold calls and other unwanted calls to my landline home telephone. This is despite the fact that I have been registered with the Telephone Preference Service for many years. I have recently gone Ex-directory. I have Caller Display with my telephone provider (Sky). In short I have done

all I can do to ensure my phone line is as protected as it can be BUT still the calls manage to get through. Particularly intrusive are calls from abroad both from Europe and from other parts of the world.

I became a widow fairly recently after my husband's long illness and I was plagued by this type of call—very, very distressing at such a difficult time and, as you will understand, I could not ignore calls at this time.

I also have relatives abroad but despite my phone provider giving me Caller Display my relative's numbers do not get displayed correctly and therefore I have to answer any "International Calls/Private Caller" calls. I have contacted my phone provider with regards to this but they are unable to solve this problem for me.

It would seem that the TPS enforced by the ICO (Information Commissioner's Office) has very little bite to be able to stop these calls reaching the privacy of my home. I assume that as I am registered with the TPS that a large proportion of nuisance calls and certainly direct marketing calls do get blocked (for which I am grateful) but there are still many that come to my number.

Perhaps more publicity should be given to giving these "nuisance companies" very large fines. Putting out this information much more in the public eye would help us, the public, see that at least some effort is being made to correct this problem.

The multi-million pound companies seem unable to use their considerable profits to be used to conquer this problem.

Advertising your "Inquiry" to a wider audience in the general media may also benefit us the public in the long run. I have only heard of the "Inquiry" because my MP contacted me.

The Privacy and Electronic Communications Regulations 2003 (PECR) need updating especially considering these are now 10 years old and need to catch up with the massive rate that Technology has changed over this period. They would appear from the date of 2003 to relate more to the Age of the Dinosaurs in technology terms.

I would not dream of letting a stranger into my house and I really object to the fact that just anyone can "enter" my home through my phone line. I now live alone and I am a pensioner—the situation can be rather desperate at times when there is nobody else to deflect these calls. Luckily I'm not foolish enough to fall for any scams directed my way.

I hope this is of use in your Inquiry.

August 2013

Written evidence submitted by Simwood eSMS Ltd [NTC 024]

This response is made by Simwood eSMS Limited, a UK based Network Operator providing wholesale services to Communication Providers.

We wish to comment on the request for "practical measures by communications services providers to curtail such communications" specifically in respect of telephone calls.

Historically, a phone number could be considered a reliable indicator as to the origin of a phone call, since it corresponded to a physical connection to a provider's network and the provider was trusted to mark calls originating from it accordingly.

This is no longer the case and the phone number a call appears to come from is categorically not a reliable indicator of where it actually came from. In just the same way as consumers may receive Phishing e-mails, the origin of phone calls can be and is routinely falsified. This is trivially easy to do and is exploited by nefarious parties to enhance answer rates by, for example, making a call appear to originate from the callee's local area.

Industry, the regulatory environment and public perception do not reflect this reality and in some cases unhelpfully deny it.

We are allocated a large number of UK telephone numbers by OFCOM, which are in turn sub-allocated to our Communications Provider customers. Generally calls *to* those numbers traverse our network and it is correct that we should be the point of contact for investigations relating to them in our capacity as the Range Holder.

Calls ostensibly *from* those numbers are not in any way guaranteed to originate from our network and it is possible, and common in the case of Nuisance Calls, that they do not. The current practice by the Incumbent and authorities of referring investigations to the Range Holder assumes that they do.

We have unfortunate experience of calls being made to innocent members of the public where the originating number was falsified to be one within our ranges. In every case to date the perpetrator has selected a number that is not in service and therefore will not receive incoming calls, at least saving an innocent end-user from wrongful accusation. However, in every case the customer's provider, typically the Incumbent, have routed enquiries to us as Range Holder. In some cases the victim has been given our name as the perpetrator or our suggestion that origin can be spoofed has been denied. Yet, in every case we were powerless to intervene as

the calls did not traverse our network since their origin was falsified. We have in the past sought help from OFCOM but did not receive a reply.

Our recommendation is that the telephone number is assumed to be an unreliable indicator of origin and investigations focus on where calls actually originated. Every network knows which interconnected network passed it the call and it is therefore possible to trace back from the victim to the ultimate perpetrator without unnecessarily involving or implicating the Range Holder. This does mean more work for the victim's provider and others in the chain but is a means of actually solving the problem rather than creating a second victim as the current process does.

This does of course require extensive education, which we would suggest may be usefully extended to the general public. It is sad to learn of victims who were only duped because the call had a local number and they, often elderly, trusted it to be so.

August 2013

Written evidence submitted by The National Autistic Society [NTC 025]

The telephone is the single most successful way that—as a charity reliant on public donations—we raise money from individuals. Indeed it is far more successful than street, door, direct mail and other routes to market.

Last year alone we were able to recruit 1,469 new donors who all chose to set up a monthly gift to our charity. This may not seem many—but it grew the number of people giving regularly to us by 40% and is expected to provide us with c. £600,000 income over the next five years. Income that will be spent supporting people with autism and their families—people who are often at crisis point with nowhere else to turn.

What's more it's the best way we have of ensuring as many people as possible are part of the Gift Aid scheme, a further significant source of income.

By changing telephone to an opt in channel or any other extreme measures proposed this income can be expected to diminish significantly—in the above scenario I would be surprised if we were able to generate even a third of that income. So less people with autism and their families are supported when we already struggle to meet demand for our services due to funding shortfalls.

Please do not curtail our use of this marketing channel—I would implore you to fully consider the implications for society before making any changes.

August 2013

Written evidence submitted by John Collins [NTC 026]

SUMMARY

The problem of nuisance telephone calls, texts and emails is epidemic. The measures provided for avoiding them are ineffective at best and counterproductive at worst. Enforcement powers granted to regulators such as the Information Commissioner and Ofcom are woefully inadequate.

To many people the problem of what are usually referred to as “spam” calls and texts has become as uncontrollable as the weather. You can avoid them by not having a phone in the same way as you can avoid getting wet by never going out but that is hardly acceptable.

Unlike the weather, however, Parliament does have some control over this area and serious action would be welcomed.

THE TELEPHONE PREFERENCE SERVICE (TPS)

I registered my phone number on the TPS the very first day it was possible to do so. Despite this I would say I receive at least one nuisance call a day and sometimes as many as 3 or 4.

If challenged about being on the TPS, the caller usually responds:

1. “What’s that?”
2. “It doesn’t apply to this type of call”.
3. “You filled in a survey about XYZ and agreed to be called”.
4. “Sorry we won’t call you again” (and then they do).
5. “You bought something from us 10 years ago and ...”

On (thankfully a few) occasions something like:

6. “Did you know you are a ****ing stupid ****er thinking that does anything for you?”

or even

7. “Yes we know you’re on the TPS so we knew you’d be interested in.....”

The problems with the TPS are:

1. It is run by the DMA—a more classic case of a poacher pretending to be a gamekeeper is harder to imagine.
2. It costs callers serious money to obtain a list of people “not to call” so it is easier just to call everyone and put up with the odd complaint.
3. The enforcement authorities, mainly the Information Commissioner, can only act if the complaints amount to a sufficient volume that they can say it is a “serious breach” of the PECR.
4. In many cases the caller’s number (as displayed by caller ID or by dialling 1471) is withheld or is false making it impossible to track down the caller.
5. It is totally ineffective against overseas calls, to which the nuisance callers are happily resorting.
6. You can’t even shout and swear at the “recorded message” calls.

I have never actually bought PPI but (although the avalanche of PPI claims callers has thankfully tailed off) I half-wish that the banks had won the battle over PPI.

THE COMMERCIAL TPS

Owning a small business, I was keen to register on the Commercial TPS the instant it arrived. I noticed that the DMA was fighting hard against its implementation, but having lost that fight, “administers” it along with the original TPS.

I may think that the original TPS is ineffective but the Commercial TPS makes it look like a tower of strength.

You have to remember to renew it each year (in case that does any good).

It is hard to see why someone running a small business should be less protected from nuisances and time-wasters than someone in their home.

MY SUGGESTIONS

I would suggest that Parliament enact the following changes:

1. Change the philosophy of the system to one of “opt-in” rather than “opt-out”. People must consciously and deliberately “opt-in” to the receipt of calls and confirm that that is their intention which can be withdrawn at any time at short notice.
2. It should not actually be possible to give “blanket” opt-in permission for any type of call but only for specific subjects of interest to the subscriber.
3. Permission to call under the “opt-in” system must not be assigned or acquired by other parties.
4. The purchase of goods and services from a caller shall not entitle the caller to continue to make calls to the purchaser for longer than the warranty period of the goods or services purchased.
5. Calls from within the UK must always be made with an accurate caller ID whose numbers must not be at premium or increased phone rates to call back.
6. “Recorded message” calls must be totally banned.
7. Telcos must provide the facility to bar incoming International Calls without charge.
8. Any non-accidental breach of the regulations should be punishable, not just serious ones.
9. The TPS and commercial TPS should be continued, but run by the Information Commissioner’s office or Ofcom not the DMA and the penalties for abuse of numbers on those lists should be higher than for other breaches. Registration on the TPS and Commercial TPS lists should be subject to a fee of about £50. However 10% of any fine imposed as a result of a call or calls to a number on the lists should be paid to the recipient.
10. Increased penalties should be imposed on callers who have been previously explicitly told by the recipient to stop calling them, or who have acted abusively, offensively or otherwise caused distress.
11. Payment of any contract obtained by use of methods in breach of the regulations cannot be enforced even if the goods or services have been delivered.
12. The provisions should apply to private limited companies as well as to individuals. Any entry in the commercial TPS should be permanent, not subject to annual renewal.
13. The above shall apply to mobile phones and texts.

Written evidence submitted by Saffron Fisk [NTC 027]

I have lived at my current address since late 1990; until mid 2004, the phone was listed in the directory under the name of another person who also lived there (the relevance of this will become apparent). When I changed the listing to my name, I also requested that it become ex-directory. The number was already registered with the Telephone Preference Service, and had been for some time, although I don't recall exactly when I registered it.

After I registered with TPS, there was a noticeable decline in the number of unsolicited marketing calls, though they did not cease entirely. Some of the calls which got through were recorded messages congratulating me for having won a holiday, or offering me advice for claiming compensation for injuries I had never had. It was of course not possible to interact with these callers. There have been almost none of this type of call in the last year or so.

In other cases, the caller either rang off as soon as I answered, or started to speak, then rang off after a word or two. I believe this is a result of their dialling several numbers at the same time; they break off contact with all but the one which answers first. This type of call does not bother me *more* than the others, but I can see that it could be very alarming for someone more vulnerable.

When I have been able to speak to the caller, I have always told them that the number is covered by the TPS. Usually, this elicits an apology plus a promise to remove me from their database. A few years ago, however, there were at least two occasions when a young-sounding male caller (not the same one each time) insisted that I could not possibly be registered, since his "system" would not allow him to call such a number; I was then asked how long I had been registered and my answer of "several years" was disputed. If they were trying to sell me something, such aggression and rudeness was not a good start! I always checked with the TPS afterwards; I always was still registered. I have not encountered that defence recently.

Within the last couple of years, there seems to have been a change in the type of calls that I have been receiving.

- (a) Callers with Indian accents asserting that I have a computer problem and that they are from Microsoft. They always hang up when I either accuse them of being a scam, or ask them to tell me what operating system I am using (they claim that they can see my computer). Dialling 1471 reveals that "we do not have the caller's number to return the call", so I cannot report them.
- (b) Callers asking if I am Mrs X (the name in which the phone was previously registered). I tell them about the TPS; I also ask them to inform their supervisors that they are using a database which is at least nine years old and thus possibly not that useful to them. The people I am speaking to are just front-line staff; they usually get rather flustered and promise to pass the message on. I feel sorry for them, but I am annoyed that some list containing my (non-)name, associated with my phone number, appears to have been sold to marketers who have then not checked the TPS lists.
- (c) Callers from energy efficiency outfits, including those trying to provide me with solar panels at no cost to me. Others have offered insulation, the green deal, etc. These people do not know my name; they ask if I am the householder. Some of the calls which have been terminated without anything being said are also from such companies; their numbers are accessible via 1471 and I have looked them up on-line, usually to find that they have a history of such behaviour. I have reported at least two of them to the TPS (I received an acknowledgment but no report of definitive action). Sometimes I tell them about the TPS straight away, sometimes I wait to find out what it is that they are touting.

I understand that the TPS, at least originally, only covered marketing, and that the rules could be circumvented by claiming that the call was a survey. This has always seemed to me to be a weakness; almost all the calls I have had were ultimately trying to sell me something, even if that was not immediately apparent. I have had perhaps two genuine opinion surveys (other than those where I have actively given my number to someone knowing that there could be a follow-up call) since I registered.

When I register to vote I am able to opt-out of appearing on the edited electoral roll (and I do so). When I choose to have my phone ex-directory and register it with the TPS, I really shouldn't be getting any unsolicited calls at all. I would like to see an extension of the TPS' powers to include other types of call, and an end to the sale of phone directories (in the broadest sense; I don't know if my erroneous details were obtained from a BT directory or some other database, and the callers were unable to tell me any more than that they had been given a list of names and numbers to ring).

I gather that there are alternatives/adjuncts to the TPS which are more effective at screening (though some have to be carefully set up to avoid blocking genuine calls from unknown numbers), but these are not free. I would like to see a more thorough service available at no cost—why should a consumer who is being hassled have to pay to not be hassled? That seems to add injury to insult. I would also like to see evidence of those who break the rules being censured in an effective manner. This evidence may exist, but I have not seen it displayed.

I have not received any nuisance text messages.

July 2013

Written evidence submitted by Pinesoft Ltd [NTC 028]

SUMMARY

1. Unsolicited marketing by SMS—or “spam” texts as they have become known—represent a significant problem for consumers, mobile network operators and legitimate marketeers. Recent research has suggested that 8.7 million such texts are received by mobile users in the UK every day.

2. Currently, the principal public means of dealing with “spam” texts is time-consuming and involves an online complaint form with details of each such message received. That information is then processed by the Information Commissioner’s Office (ICO).

3. The sheer volume of “spam” sent to individuals’ mobile telephones makes the compilation of repeat reports impractical and potentially inconvenient. However, the growing tide of unwanted messages arguably has possible reputational and commercial impact for the mobile network operators and the marketing industry if it remains unchecked.

4. As a result, the mobile network operators and consumer groups representing mobile users acknowledge the need for a simple and effective solution; ideally, one which is technological rather than regulatory in approach.

A TECHNOLOGICAL APPROACH

5. Pinesoft is a London-based software engineering consultancy that commenced trading in 1994 and has extensive experience working with major domestic and international operators in the post, parcel and financial management industries.

6. Pinesoft has created and patented the Mobile Preference Service (MPS). It enables mobile “phone users” to set preferences against SMS messages they receive. These preferences then filter text messages, allowing marketing texts from brands which they specifically agree to while blocking those they do not. MPS is free for consumers.

7. MPS functions in a manner similar to how the Telephone Preference Service (TPS) works with voice calls on fixed “landlines”. However, whilst the TPS simply allows or blocks all marketing calls, the MPS allows messages on specific subjects or from specified sources to be blocked or permitted, thereby expressing individual consumers’ preferences more fully.

8. Pinesoft has been made aware that each of the major networks undertakes its own initiatives in an attempt to limit the amount of “spam” making it to subscribers’ handsets. They have so far not been able to put a common system in place, apparently for reasons of commercial confidentiality.

9. We contend that the greatest potential benefit would come from a method which is universal and has the active participation of all the mobile network operators connected to a single system, so allowing them all to block “spam”. The MPS is designed to function in just such a fashion.

10. Pinesoft has held separate briefing sessions about MPS both with Ofcom and several major mobile networks. All agreed as to its ability to make progress in combatting the problem of “spam”, even if they could not concur as to who should pay for the cost of its ongoing operation. Whilst the regulator believed the networks should bear the expense, the networks felt that those marketing companies which stood to gain legitimacy and approval from MPS should instead pay for its upkeep.

11. We believe that, as the fundamental development work has already been completed, the costs needed to bring about its intended application would be for connecting the networks and marketing companies into the system. Each would cost in the low tens of thousands of pounds, with the precise sums depending on the exact level of work entailed. In addition, the annual support costs would amount to the low six figures.

12. As the regulators and authorities have already identified, the methods used by those behind “spam” text marketing are evolving rapidly. We believe that given their changing tactics and technologies, it will be difficult to completely eradicate the threat and nuisance which they pose to consumers and networks.

13. Pinesoft is confident that the MPS is an advanced non-network-specific system and stands the best prospects of helping parliament, the regulators, mobile network operators and consumers combat “spam” marketing texts.

August 2013

Written evidence submitted by Dr Eilidh Whiteford MP [NTC 029]

I write to confirm that complaints from constituents with regard to “nuisance calls” are a regular and ongoing feature of my postbag. These predominantly take the form of complaints about unsolicited sales or market research calls, or “silent” calls, where an automatic dialling system has picked up on an alternative number. Most of these calls would appear to be associated with home improvement, home insulation, bad debt collection, insurance compensation claims, and PPI mis-selling claims. A proportion of these originate abroad, but many are clearly from companies operating within the UK.

My constituents inform me that being enrolled in the Telephone Preference Service is almost totally ineffective, since most canvassing companies simply ignore it. Advising the caller that the recipient is a member of the TPS usually produces a trite apology and an assurance that their number “will be removed from their files” (which is often not the case as subsequent calls from the same company testify)—or else the caller simply hangs up immediately without further comment.

There is a perception that telecommunication providers are unwilling to take effective action to eliminate such unwelcome calls, given that they benefit from the revenues raised. Unfortunately, the element of competition does not create an incentive for service providers to take action either, presumably for the same reason. That, and the unwillingness or inability of the regulatory authorities to take effective enforcement action or impose stringent penalties means that the marketing companies are currently operating with impunity.

Some constituents report that this phenomenon has increased to the level where the *majority* of calls being received by them are such unsolicited nuisance calls. These not only cause inconvenience for my constituents, but for many with elderly or unwell friends or relatives who might have reason for concern, can also cause alarm or distress.

I would most certainly welcome any action which would allow my constituents the option of being excluded from receiving such calls, and the introduction of effective powers and penalties which the regulatory authorities might impose on offenders.

August 2013

Written evidence submitted by trueCall Ltd [NTC 030]

1. SUMMARY

1.1 Call blocking technology has an important place in the mix of solutions to the nuisance phone call problem, but some have expressed concern that regulation and enforcement should be sufficient to control the calls that the public received—that people shouldn’t have to pay for products or services to block unwanted calls.

1.2 If someone has a particular problem with nuisance calls today, then telling them that if they wait for a few years the problem will eventually go away is no solution. A call blocking device installed today will immediately solve their problem. It is a solution with a proven track record—in recent independent trials carried out by Trading Standards a Third Generation system blocked over 95% of unwanted calls.

1.3 Of course cost is an issue—the cost of the technology would be significantly less if the main consumer telecoms would incorporate such technology into their networks.

1.4 Older and vulnerable people are those most at risk from each nuisance call they receive, and perversely, since they are more often at home for most of the day, they receive four times as many nuisance calls as the average person. Trading Standards trials show that it makes financial sense for councils to provide call blocking technology free of charge to those who are vulnerable and most at risk from these calls.

1.5 The email spam problem was not brought under control by stopping the spammers sending emails, it was solved by service providers and users deploying tools that prevent spam emails arriving at the inbox. Dave Clancy, PECR Investigations Manager for the Information Commissioners Office said at a recent seminar “Even though people still receive huge amounts of spam emails we don’t get many complaints because filtering systems in the network and at the users’ inbox reduce the problem to a level that is manageable for most people”. The nuisance call problem can be solved using exactly the same approach—Third Generation call blocking technology installed as a device in the home, or built into the network can solve an individual’s nuisance phone call problem quickly and effectively.

1.6 This submission is a summary of a report we have published “Allowing consumers to block nuisance phone calls in the network” which is available from www.trueCall.co.uk/reports and which is copied in.

2. CAN REGULATION SOLVE THE NUISANCE CALL PROBLEM?

2.1 What do we mean by “a solution to the nuisance call problem”? Ideally we mean that we want to reach equilibrium where consumers feel that they are in control of the type and number of phone calls they receive.

2.2 There are five problems with relying on regulations to get us to this equilibrium:

1. **Regulation is a blunt instrument**

It is often said that a nuisance phone call is in the eye of the beholder. A call that I may be happy to receive may be a nuisance call to you, and a cause of anxiety to an older person. Also, our individual experience of nuisance calls is not the same—there is a huge difference between the inconvenience of receiving four nuisance calls per month (the experience of most people) and receiving 19 calls per month (the experience of 20% of the population).

Consider the calls that are the public seem to dislike most at the moment—PPI calls. Financial services companies, who have paid out £15 billion in PPI compensation, report that the vast majority of PPI claims come to them via claims management companies. Consumers who were alerted to their right to compensation by a PPI phone call may be very grateful for having received it.

Regulation provides a “one size fits all” solution where the regulator decides which types of marketing calls are good and which are bad. This means that all consumers are offered the same protection against unwelcome marketing calls irrespective of their needs or preferences. If, as we have demonstrated, different people have different needs then regulation only provides a compromise solution that is unlikely to be satisfactory for many people.

2. **Regulation has not been effective at preventing unwanted calls anywhere in the world**

The UK is already one of the best regulated countries in the world regarding nuisance calls—a national opt-out list is in place (TPS), there are rules that limit the use of the most pernicious call centre technology, recorded messages calls, number scanning and fax scanning, and strong data protection regulations are in place.

So far regulation in the UK hasn't been effective at stopping nuisance phone calls—at best it has slowed down the increase. Nuisance calls are a problem around the world and we are not aware of any country where regulation has been effective. Telemarketers are resourceful and adept at finding loopholes and new types of call that can get around the rules, or just hiding themselves so that they are too difficult to identify and pursue. Of course, call centre technology is always developing and regulation is inevitably always one step behind.

Consider the idea of banning cold calling—a popular option suggested by many (and one that is currently being considered by the EU). This was introduced in Germany over ten years ago but German consumers continue to receive a wide range of unwelcome phone calls from companies who presume consent when it hasn't been explicitly given. In 2011 complaints about nuisance calls in Germany were at a similar level to the UK.

Drafting regulations that are tight enough to be effective will pile on costs for the legitimate call centre industry and is likely to have unintended consequences while doing little to stop the rogues.

3. **Regulations are almost impossible to enforce**

The international nature of telemarketing and the anonymity that telecoms technology affords means that even if regulations are in place to control calls it is almost impossible to enforce them.

- It is difficult to identify culprits.
- It is difficult to gather evidence as phone calls don't leave an audit trail that is easily accessible.
- The legal process is costly and resource heavy.
- There are jurisdictional boundaries.
- Laws are different in different countries.
- The worst culprits are the ones who are most difficult to identify and pursue.

There has been talk of international co-operation on this issue, but it is difficult to see the countries that host the international call centres giving priority to the enforcement of another countries nuisance calling rules.

The risk is that more enforcement action will just lead to the easy targets—UK call centres—being fined for minor infraction of the rules, and the call centres that completely ignore the rules but are based overseas getting away with it. Many believe that this has already happened, and it is yet another regulatory cost for the legitimate UK call centre industry.

4. **Lots of calls are compliant**

One way that you can classify marketing phone calls is to separate them out into calls that are compliant (those where the caller has complied with all the regulations relating to telemarketing), and calls that are not complaint (those where the caller has failed to comply with one or more of the regulations relating to telemarketing). We estimate that around half of unwelcome marketing calls received by UK households are compliant.

Of course, the fact that a call is compliant doesn't mean that everyone is happy to receive it. Consider a phone call you receive trying to get you to install solar panels. If you are not

registered with the Telephone Preference Service, if the call is made by a live operator, and if the call centre's equipment is correctly configured then this call can be perfectly legal. Some people will welcome this call—maybe it leads to cheaper electricity costs—but others will consider it to be an unwelcome intrusion.

A call centre may be operating completely within the law but:

- Their calls are frequent.
- Their calls arrive at inconvenient times.
- Their callers use “hard sell” tactics.
- The person receiving the call doesn't have the capacity to deal with it so it causes anxiety or distress.

Regulators cannot—by definition—prevent compliant phone calls being made, so an approach that just focusses on enforcement of regulations can only hope to partially solve the nuisance call problem.

5. People have a problem today

Consider the problem for Anne's carers:

“Anne has dementia and lives on her own. She has been a victim of several scams and has willingly given her credit card details to cold callers and sales people resulting in multiple insurance policies to cover household appliances and cover for unnecessary items as well as buying inappropriate health products.

It has been distressing for Anne when she discovers this is the case as often she has no recollection of it and therefore feels vulnerable and that she has been taken advantage of.”

Telling Anne's carers that she has to wait until new regulations start to bite is no help at all—Anne needs protection now, and the only option is call blocking technology.

3. NUISANCE PHONE CALL BLOCKING TECHNOLOGY

3.1 Nuisance call blocking technology has advanced hugely in the last five years—it is proven and effective. It allows each user to decide exactly which sorts of calls they want to receive and which ones they don't. Second Generation technology (which has been around for almost 20 years and costs £40–£60) can block some of the nuisance calls, but it is being superseded by Third Generation systems that are much more effective (and cost around £100).

3.2 Early in 2013 three Trading Standards teams—in Angus, East Dunbartonshire and East Renfrewshire—carried out independent projects to see how nuisance calls affected vulnerable people, and to test the effectiveness of Second and Third Generation systems. This was first time that this had ever been investigated. During the trial Second Generation call blocking technology blocked 34% of the unwanted calls and Third Generation technology blocked 98%. When configured to protect the most vulnerable residents a Third Generation system blocked 100% of the nuisance calls giving them total protection.

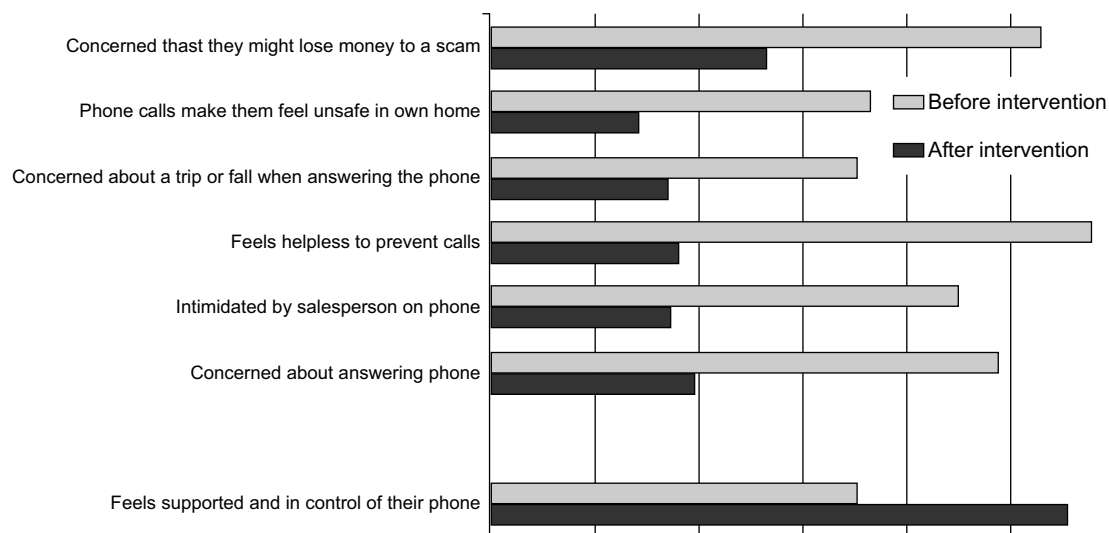
3.3 Second and Third Generation technologies can be delivered as a network service, as a device for the user to install in their home, or integrated into a telephone handset. In the USA the networks have offered customers Third Generation services for over a decade, and France Telecom introduced a Third Generation network service seven years ago. Landline and mobile networks in the UK have been slow to embrace this technology and still only offer limited Second Generation solutions.

3.4 There are many advantages to putting call management technology into the network—there is no equipment for users to buy or install; it can be provided for a modest monthly fee; it can be quickly enhanced and adapted if call centres change their tactics; and the same technology can be used to protect landlines, mobile phones and VoIP lines.

4. THE CASE FOR PROVIDING NUISANCE PHONE CALL BLOCKING TECHNOLOGY FOR OLDER AND VULNERABLE PEOPLE

4.1 While the telephone is an essential lifeline, it can also cause problems for older and vulnerable people. They may be confused by telemarketing calls that they receive, they may agree to order products that they don't need, or they may be taken advantage of by unscrupulous sales people or scammers. How should vulnerable consumers be protected?

4.2 The study carried out by Trading Standards in Angus monitored the calls of 43 vulnerable individuals over an average period of two months. While they weren't housebound, they spent much more of their time at home than someone who worked. On average 40% of the calls received by older and vulnerable residents were nuisance calls (four times the national average), and alarmingly, there appeared to be evidence that the most vulnerable residents were receiving more calls—ie they were being specifically targeted. With 98% of the nuisance calls blocked by Third Generation technology the feedback from residents and their carers was extremely positive.



4.3 The graph above shows that call blocking technology has given all residents involved an increased level of confidence and empowerment; a clear reduction in concern about nuisance calls; a reduction in stress; a decreased risk of trips and falls; and a reduction in fear. This has not only had an impact on their own lives, but also on the lives of their carers, who previously had to deal with the consequences of these calls. Carers said that the technology was reducing the risk of trips and falls, and was enabling residents with dementia to live independently in their own homes for longer.

4.4 The benefits go beyond general protection and wellbeing—it can reduce the amount of support these residents require from public services. Allowing people to stay independent for longer is a key policy objective; preventing vulnerable people falling victim to a scam not only reduces the burden on law enforcement agencies but reduces the chance that the resident will have to rely on state to support them; a reduced incidence of trips and falls can make a big difference to the medical care that the resident requires both in the short and long term.

4.5 As a result of the project these Trading Standards teams recommended that councils should provide call blocking technology free of charge for its most vulnerable residents—for example those in council run sheltered accommodation, those who have already lost money to a scam (re-victimisation is a big problem), those who get a diagnosis of dementia, and those who are assessed for a council community alarm.

4.6 Anne’s carers make this very clear (trueCall is our own Third Generation call blocking product):

“trueCall has been an extremely valuable tool enabling Anne to stay in her home longer. It has eliminated these nuisance calls and has had a direct impact on her wellbeing. Anne is more confident and is more positive about her situation; she is also less worried about being able to cope in her home. It has really made a positive difference in helping Anne adjust to living with dementia, and renewing her faith in her own abilities.”

5. CONCLUSION

5.1 If everyone obeyed the law then burglar alarms wouldn’t be necessary. That doesn’t mean that burglar alarms are not an important component in preventing burglary. Call blocking technology is a key component in the fight against nuisance calls, and the only one that has proved to be effective so far.

5.2 Of course there is a cost for this technology, but there are huge personal and societal benefits in blocking the unwanted calls that elderly and vulnerable people receive. Councils provide pendant alarm systems for older and vulnerable people in their area—they should also provide call blocking technology.

5.3 Delivering call blocking in a device is very effective, and there are real benefits to providing it in the telecoms network. None of the UK telcos have chosen to implement the network call management features that have been available in the US since 2001 and in France since 2006. They say that while this is possible, the technology is too expensive to implement. We are sure that the public would like to see government and regulators encouraging the networks to embrace this technology to provide us all with another option to solve the nuisance call problem.

Written evidence submitted by the Communications Consumer Panel [NTC 032]

INTRODUCTION

The Communications Consumer Panel welcomes the opportunity to respond to this important inquiry into nuisance calls by the DCMS Select Committee.

The Panel is an independent body of eight experts who work to protect and promote people's interests in the communications sector. We were established by the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, Government, the EU, industry and others to look at issues through the eyes of consumers, citizens and small businesses. The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of small businesses, which face many of the same problems as individual consumers. There are four members of the Panel who represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively.

Following the alignment of the Advisory Committee for Older and Disabled People with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

RESPONSE

Nuisance calls—including live marketing calls, silent calls, abandoned calls, and recorded marketing message calls—and texts from businesses can cause consumers irritation, anxiety and distress. There is also a risk that they adversely affect people's likelihood of engaging with commercial services by phone, which in turn could mean lost business for some firms. A reduction in people's trust in their communications service is bad both for consumers and businesses.

The Panel advised Government in 2010 that silent and abandoned calls continued to cause significant harm to consumers, and called on Government to raise the maximum penalty for persistent misuse of automated calling systems and services to £2 million. The Department of Business, Innovation and Skills (BIS) agreed with the Panel and gave Ofcom the powers to impose higher fines up to £2 million. Last year, we welcomed Ofcom's exercise of its new powers to fine companies for making persistent silent or abandoned calls, and we called for continued close monitoring to stop others. However nuisance calls in various forms persisted throughout last year and into this year, and therefore remained an issue high on the Panel's agenda for most of 2012–13, and our work plan for 2013–14 indicates our continued concern about this area.

As Ofcom and the Information Commissioner's Office (ICO) have highlighted, "recent technological developments have reduced the cost of making nuisance calls and sending spam texts and made it easier for organisations to hide their identity. Financial incentives such as referral fees for claims cases, and compensation for mis-selling of Payment Protection Insurance (PPI) have also driven the volumes of nuisance calls and messages upwards. This issue is a global one; there is a relative ease of access to personal data that lead generators and list brokers can readily collect and sell in the UK and overseas. This practice of selling data generates significant revenue and can raise complex challenges for national regulators." Current economic pressures along with, for example, people being contacted speculatively about pension "liberation" schemes and PPI mis-selling make nuisance calls an issue that is unlikely to diminish or go away. If anything, it is likely to grow.

Part of the difficulty in stopping the flow of nuisance calls stems from the fact that this complex area has no single solution and is one that requires action from a number of regulators and public authorities, in addition to support from the industry. Ofcom is responsible for taking enforcement action against organisations that make abandoned and silent calls, using its powers under sections 128 to 131 of the Communications Act 2003 in relation to "persistent misuse of networks or services". The ICO is responsible for enforcing the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("PECR"). These regulations prohibit organisations from making unsolicited sales and marketing calls to individuals and businesses who have registered their number with the Telephone Preference Service (TPS). PECR also prohibits organisations from making automated (recorded) marketing calls or sending unsolicited marketing emails or SMS text messages to individuals who have not consented to receiving such messages.

Whilst we understand the complexity of the issue we also understand the harm that these calls and texts cause to consumers. Although we welcome the work being undertaken in this area—and particularly the recent ICO/Ofcom joint action plan—we have been robust in urging further progress. This is particularly in respect of more collaboration and co-operation between relevant agencies and enabling action to reduce the incidence of unwanted calls leading to greater clarity for consumers, swifter and more robust action against offenders; and more and better use of technical aids (Caller Line Identifier (CLI) and call blocking) with no charge to consumers. We would also recommend measures to increase consumer-awareness of how to report issues, and wider publication of the existing guides as to how to deal with nuisance calls.

The Panel appreciates the Government's recent statement of legislative intent in *Connectivity, content and consumers: Britain's digital platform for growth*. We are extremely pleased to note that the Government has expressed its intention to keep this issue under review and to legislate if it cannot see clear progress—for example, to license call centres, and/or bring together functions to tackle nuisance calls and texts under a single regulator.

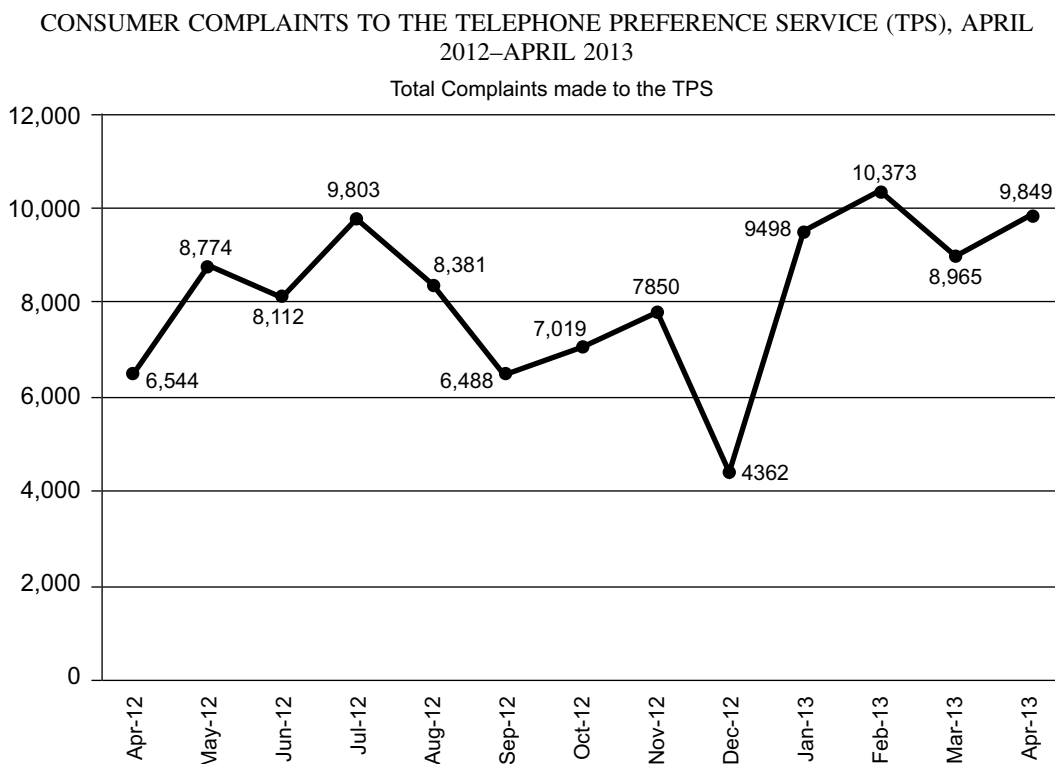
LEVELS OF COMPLAINT

Ofcom’s recent nuisance calls research⁴ confirmed our concerns that nuisance calls are a widespread problem for the majority of consumers, with four in five (82%) of adults having experienced a nuisance call during the four-week research period. Consumers who experienced unwanted calls received around two per week on average. Calls about PPI made up the largest proportion of unwanted calls that could be identified. The research also highlighted that significantly higher levels of nuisance calls were experienced by older consumers, some of who may struggle to answer the phone, only to find an uninvited and unwelcome call. Of those calls received, 86% of the calls were found by participants to be annoying, 7% worrying, 3% distressing, 7% not a problem and 1% were considered useful. BT states that it receives more than 50,000 calls to its Nuisance Calls Advice Line each month.

Figure 1 below from Ofcom’s May 2013 edition of its Telecoms Complaints Bulletin⁵ shows the number of complaints made to the TPS about unwanted marketing calls. As the Committee will know, in order for a complaint to be recorded, the person concerned must have been registered with the TPS for at least 28 days which allows call centres time to obtain the latest version of the register and update their systems. The graph illustrates that the number of complaints made to the TPS alone about unwanted marketing calls has been approximately 6,500 or above every month except one since April 2012—reaching a peak of 10,373 in February 2013. The TPS has suggested that the rise in complaints over the last year can partly be attributed to the increased telemarketing activity of companies dealing with PPI accident claims, energy comparison services, insulation grants and lifestyle surveys. A similar rise can be seen in Figure 2, in the level of complaints about silent or abandoned calls made to Ofcom since December 2012.

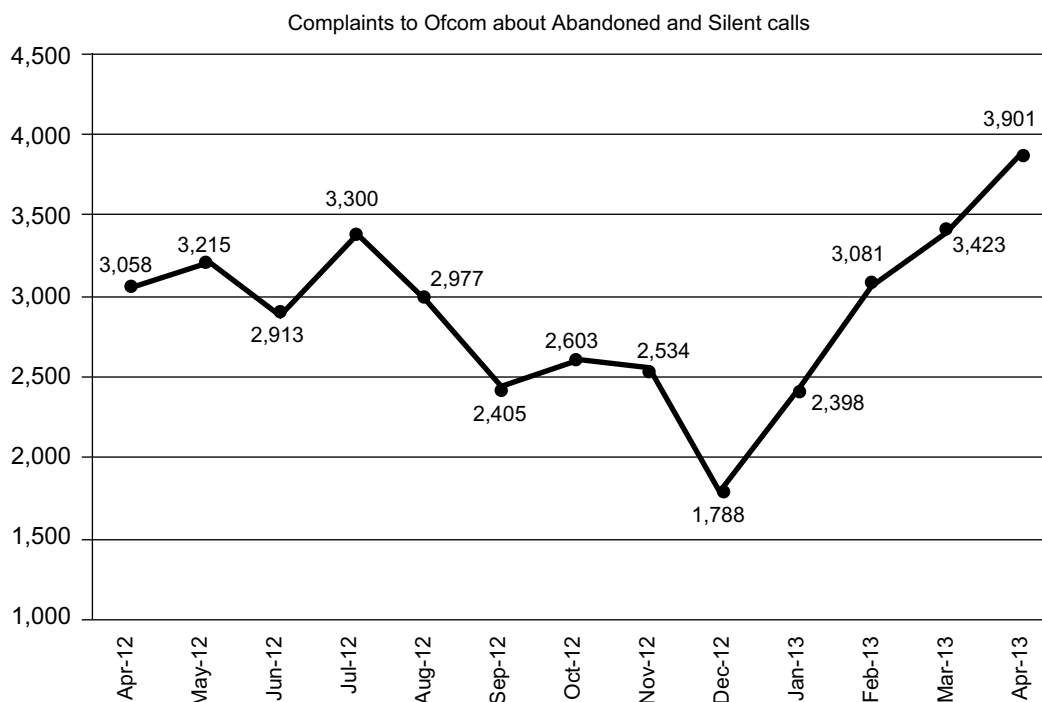
We currently do not have access to the number of complaints made to communications providers. Whilst we appreciate that the providers may not be willing to share this information publicly, we would hope that they are prepared to share their data with the relevant public authorities, so that the true extent of the problem—and consumers’ reaction to it—can be more accurately assessed. We would urge that communications providers be given every encouragement to participate collaboratively in this way, to help reduce what is an industry-wide problem.

Figure 1



⁴ <http://stakeholders.ofcom.org.uk/market-data-research/other/telecoms-research/nuisance-calls-research/>

⁵ http://stakeholders.ofcom.org.uk/binaries/enforcement/telecoms-complaints-bulletin/Telecoms_Complaints_may13.pdf

Figure 2**CONSUMER COMPLAINTS TO OFCOM ABOUT SILENT OR ABANDONED CALLS, APRIL 2012–APRIL 2013**

It is also important to factor in the impact of nuisance calls on small businesses. This can be significant and disproportionate as some businesses that use virtual receptionist services can pay in the order of £1.50 per call. While time lost to dealing with such calls is a wasted resource for businesses generally, for a micro-business without an infrastructure, such calls can also have a direct financial impact.

ENFORCEMENT AND COLLABORATION BETWEEN PUBLIC AUTHORITIES

As Ed Vaizey, Minister for Culture, Communications and Creative Industries has noted, there are a number of public authorities with a key role to play in addressing the problem of nuisance calls. There are some benefits to this approach—for example, interventions can be made at a number of places along the value chain. But there are also drawbacks, as no single authority is ultimately responsible, nor risks direct criticism, for failing to deal adequately with the problem. The potential for consumer confusion about reporting channels and sources of help is also high—itsself leading to a loss of confidence and further detriment as people struggle to find support, or spend undue time and effort seeking assistance.

This complex and challenging area is thus further complicated by the boundaries of the remits of the public authorities involved. Close collaboration between the relevant parties is therefore vital to protect consumers. In its response to Ofcom's draft Annual Plan⁶, the Panel expressed its significant concerns about nuisance calls and scams. While appreciating the work that Ofcom was undertaking in these areas, often in collaboration with other public authorities, we suggested that work in the area of unsolicited marketing calls and texts needed to be defined more clearly and more widely in the final Plan. We also stressed that because multiple agencies are involved in seeking to address these issues, renewed efforts were required by all concerned to work in a collaborative manner, and to provide greater clarity for consumers about how to report such calls/texts and seek redress. The Panel also encouraged more emphasis on identifying where Ofcom would use its position and expertise to facilitate or encourage other stakeholders working in a given area, even if Ofcom itself was not taking or could not take direct action.

We were pleased that Ofcom recognised the points we made and, in response, broadened the reference to its work in this area.⁷ Instead of focusing solely on silent calls, Ofcom amended its Plan to explicitly state that it was taking a wider range of actions to tackle nuisance calls and messages as a whole, and outlined the key elements of its five-point action plan.⁸

We have also welcomed Ofcom's efforts with others, including the ICO, to improve compliance. A good recent example of this shared commitment to taking action was underlined by a joint letter in March 2013 to

⁶ <http://www.communicationsconsumerpanel.org.uk/downloads/Ofcom-annual-plan-response-2013-14.pdf>

⁷ <http://www.communicationsconsumerpanel.org.uk/downloads/13.04.17-Jo-Connell-Ofcom-Draft-Annual-Plan-reply-to-22-Feb-letter.pdf>

⁸ <http://media.ofcom.gov.uk/2013/01/08/action-plan-to-tackle-nuisance-calls/>

approximately 170 organisations across the call centre industry emphasising the importance of complying with the legal and regulatory measures in place to protect consumers from harm and reminding industry of the sanctions that may apply should they fail to do so. The recently announced Ofcom/ICO joint action plan rightly acknowledges that while enforcement work remains central for those bodies, it is not sufficient on its own to address the underlying causes and needs to be complemented by a range of other work.

The six priority areas in the joint action plan are:

- **Ongoing targeted enforcement against non-compliant organisations**, to stop organisations generating nuisance calls and messages.
- **Working with communications providers to improve the tracing of nuisance calls and messages** to facilitate further enforcement action.
- **Effective coordinated action**, to share intelligence and expertise to better understand the nature of the problem and facilitate enforcement and other action to reduce consumer harm. This includes a joint ICO and Ofcom review of the effectiveness of individuals registering with the TPS.
- **Revised ICO guidance on consent**, to help clarify the practices that are acceptable and areas where the ICO will look to take enforcement action to reduce consumer harm.
- **Updated consumer guides** to help ensure that they are as clear as possible and that consumers readily understand which organisation to complain to and how to protect themselves from nuisance calls and messages.
- **New proposals for tackling nuisance calls**, to consider a holistic package of new technical and non-technical measures that would tackle the root causes of nuisance calls.

In line with this co-ordinated approach, we are encouraged by the ICO's strategic threat assessment (Operation Linden) that the Panel has advised on, and which appears to have benefitted from a multi-agency approach—and also its work with the GSMA, the trade association for the UK and international Mobile Network Operators (MNOs), to improve the tracing of unsolicited marketing texts. This has led to the introduction of an agreement that formalises information sharing between the MNOs and the ICO and the sharing of intelligence from the new electronic reporting system for spam reports which went live across the MNOs at the end of June. We were pleased to see the ICO's recently imposed penalties as a result of intelligence about companies failing to carry out adequate checks to see whether the people they were calling had registered with the TPS. The industry working group chaired by the Direct Marketing Association is also focussing on the issue of nuisance calls.

Currently, regulators generally require complaints before they undertake legal action; and need to be able to identify those companies who are allegedly in breach of the regulations. However if a consumer is not able to identify the number from which a call originates, both the raising of a complaint and enforcement action become more problematic, if not impossible. The withholding or spoofing of numbers, or the international location of a call centre all make the lack of a number more likely.

SHARING OF INTELLIGENCE

We are conscious that regulatory action is often predicated on the volume of complaints received. Yet we know from the Which? study⁹ that consumers tend to adopt a range of tactics to deal with nuisance calls, but not many report such calls to the statutory agency. In other words, the absence of a complaint does not mean the absence of a problem. So we welcome that a stated objective is to share intelligence.

Ofcom's recent research found that a wide range of sectors generate unwanted calls. PPI claims accounted for the largest proportion of unwanted calls (22%) where the product or service could be identified. However other notable sectors generating large volumes of unwanted calls included energy, insurance, pensions and home improvements. In most cases, it was difficult for consumers to identify the organisation calling them. Furthermore, the research suggests that there are a large number of different organisations generating such calls. We are therefore pleased to note that Ofcom has written to the Ministry of Justice to draw attention to the extent to which PPI claims appear to be driving nuisance calls.

The recent Ofcom research found that for 75% of silent calls and 61% of abandoned calls, the telephone number of the caller was not provided. This meant that, in the majority of cases, it was not possible for consumers to easily identify who had made the call and so have the chance to opt out of receiving future calls. We welcome the fact that Ofcom is currently investigating suspected abandoned and silent calls made by companies in the PPI/claims management sector and considering enforcement action against organisations that fail to provide consumers with the information they need to identify or contact the caller after receiving an abandoned or silent call.

We welcome the Government's expressed intention to legislate to enable Ofcom more easily to share information with the ICO and the Insolvency Service about companies undertaking such activities and to explore other options with regulators to remove barriers to enforcement—such as the ability of nuisance callers

⁹ <http://press.which.co.uk/whichpressreleases/help-for-consumers-to-complain-about-nuisance-calls/>

to conceal the telephone number which they are calling from, and the scope to lower the legal threshold that needs to be met before ICO can take action.

The coordinated effort between regulatory bodies to tackle nuisance calls must continue as a matter of urgency, while in parallel thinking strategically about longer term solutions so that the problem can be better resolved. More generally, we are encouraged by the recent greater priority given to enforcement and hope that that priority will mean faster processing and swifter action where appropriate. Some early visible outcomes will be very helpful for all stakeholders.

THE TELEPHONE PREFERENCE SERVICE

The TPS is a free service for consumers and enables them to opt out of receiving unsolicited live sales or marketing calls. It is a legal requirement that all organisations do not make such calls to numbers registered on the TPS, unless they have the individual's prior consent. As noted in Claire Milne's recent LSE policy brief "Nuisance Calls: A Case for Concerted Action"¹⁰ for "live 'cold' telemarketing calls to be legal, calling lists must have been checked against the TPS register and opted-out numbers removed from the list. Callers must also remove called numbers from their lists on request. All calling lists must have been correctly sourced, in accordance with data protection rules and with customers' consent to whatever handling of their personal data has taken place."

The Panel welcomes the forthcoming assessment by the ICO and Ofcom of the impact of the TPS on the level of unsolicited live sales and marketing calls, to evaluate how well the TPS is currently working for consumers and inform future work in this area. We would urge early completion of this work.

The TPS also takes complaints if a consumer continues to receive calls, despite being registered with the TPS. We would question whether there is a risk of dilution of the consumer voice as a result of this process. We note that complaints handled by the TPS and Corporate TPS are included in a regular report sent to the ICO, which enables them to identify trends in complaints being made and which supports their own investigations. It would therefore perhaps be useful for these complaints to go direct to the ICO in the first place. It might also help encourage consumers to report these calls and texts more often, if there was one well-publicised means of doing so. We would recommend such a move be considered. It may also be of benefit for DCMS to consider whether it is appropriate to move the maintenance of the register itself to the ICO.

CONSUMER AWARENESS OF THE USE OF ONLINE PERSONAL DATA

We welcome the Government's intention to consider whether there is scope to improve clarity around the securing of consumer consent. As the Committee may know, in 2011 the Panel published quantitative and qualitative research into people's attitudes to supplying personal data online and made related recommendations in a report entitled *Online Personal Data: the Consumer Perspective*.¹¹

In summary, the Panel considered that consumers will only be genuinely empowered if they have:

- information to allow them to make an informed decision about the implications of releasing their data;
- control over the use of their data;
- reassurance that companies will always minimise the amount of data that they collect, store it securely, retain it for no longer than is necessary and consider whether to check with consumers after a set period of time whether they still wish their data to be retained; and
- confidence that companies will follow the rules and manage personal data responsibly, and that if they do not, they will face robust enforcement action.

The Panel considers that companies should improve consumers' awareness of how their data are collected and used, and provide straightforward information for consumers.

The issue of consent is key—both in respect of the granting of consent to be contacted or otherwise, and the proving of such if there is a dispute. We support the notion of a consistent and universal standard of consent which could be communicated so that consumers at least know where they stand when ticking a box online (or not). We strongly recommend that this be given consideration. Furthermore, it does seem to us that on the issue of who should be required to prove consent had been given, the onus should fall on companies, rather than expecting the consumer to do so.

As Ofcom and the ICO have noted, consumers may inadvertently opt in to receive marketing communications. This may be due to unclear wording on forms and documents; or a lack of understanding in respect of what "opting-in" amounts to and its possible consequences—that is, unwanted calls. Furthermore, there is currently no expiry date on a consumer's agreement to "opt-in". So once someone has opted in (even unwittingly) they have effectively done so permanently. As well as making consumers aware of this fact, one suggestion may be for companies to confirm the "opt-in" status with consumers periodically—for example, a minimum of annually. Such issues raise enforcement challenges for the ICO and can lead to consumer harm. We are pleased to note that the ICO is currently reviewing all of its guidance on direct marketing under PECR

¹⁰ <http://www.lse.ac.uk/media@lse/documents/MPP/LSE-MPP-Policy-Brief-8-Nuisance-Calls.pdf>

¹¹ <http://www.communicationsconsumerpanel.org.uk/online-personal-data/online-personal-data-1>

and the Data Protection Act 1998, and aims to publish fully revised and updated guidance in early September 2013.

The Panel welcomed the formation in July 2013 of the All-Party Parliamentary Group on Nuisance Calls. We note that Mike Crockart's Private Member's Bill is due to receive its Second Reading on 1 November 2013—The Communication (Unsolicited Telephone Calls and Texts) Bill—and that it is intended to address two key issues. Firstly, how consent to being contacted for marketing purposes is given and used and, secondly, giving regulators more tools to enforce the law.

CLAIMS MANAGEMENT

We recognise that in a number of areas related to nuisance calls and texts, Ofcom does not have direct regulatory responsibility. Looking at the situation more broadly, we note and welcome the comments by other public authorities with a role to play—such as those by Chief Financial Ombudsman, Natalie Ceeney, who said that consumers should not be misled into thinking that they need to use claims management firms; and that banks need to deal effectively with such claims to prevent claims being rejected without sufficient justification. This is an example of a useful intervention at another point in the value chain. We also support her call for claims firms to be more stringently regulated.

Claims management companies are subject to regulation by the Claims Management Regulator within the Ministry of Justice. From 1 April 2013 referral fees have been banned in personal injury cases which we hope will have a positive effect on reducing the number of speculative calls. We welcome the Government's stated intention to explore whether there is scope to improve practice in call centres, for example, by tightening procedures around call lists.

We note that Ofcom has facilitated the sharing of complaints made to the TPS about claims management companies with the Claims Management Regulation Unit. We hope that this proves to be a useful aid to enforcement work by the Unit. We note that the ICO is also working with a number of regulatory partners such as the Insurance Fraud Bureau and the Claims Management Regulation Unit to tackle a trade in people's personal data relating to claims management companies and other organisations.

We hope that the Ministry of Justice will make greater use of spot checks into claims management companies' due diligence in establishing the legality of leads provided by introducers and their relationship with the call centres they employ. If the current situation does not improve as a result of the softer measures currently proposed, we would strongly recommend that consideration be given to the licensing of call centres.

While some claims management activity is legitimate, Citizens Advice has found evidence of systemic bad practice. We will not list the detail here but in its recent report *The Claims Pests*,¹² Citizens Advice calls for a number of actions, inter alia, a complete ban on cold calling; and in the longer term recommends:

- A full review of claims management regulation, to ensure effectiveness.
- Consideration of a wider range of regulatory tools and powers, including the power to impose financial penalties.
- Action on updating data protection laws, to prevent use of consumers' details for indiscriminate, unsolicited marketing approaches.

We would strongly encourage the relevant authorities to respond to the report's recommendations identifying which actions could bring about the most benefit, who the lead authority will be and the timescales in which short, medium and long term actions will be undertaken.

TECHNICAL ISSUES

We are aware that there are complex technical issues that compound the problem of nuisance calls. We do appreciate the work that has been undertaken to date by the Direct Marketing Association and industry and would encourage further collaborative action.

CLI technology is a key feature in helping to protect consumers and one of the few defences available directly to the consumer. While there are challenges around the display of accurate CLI information—particularly given the use of Voice Over Internet Protocol (VOIP) made by some companies and the “spoof” CLI applications that are now available, CLI does remain a key tool. The Panel welcomes BT's agreement to display full incoming international numbers as routine and we would encourage industry to push ahead swiftly and deliver this as soon as possible.

Currently, caller display is not provided free of charge as the default option by all providers. As it is the service provided by telephone companies, and paid for by consumers, that is being abused, it seems logical for one of the main available defence mechanisms to be freely available for all consumers. It is a matter of surprise and concern for the Panel that this is not already the case—and we strongly encourage for it to be so. People cannot make an informed decision about whether to answer a call if they cannot see immediately whether a number is displayed—and if so, what that number is. The Panel welcomes the provision of equipment such as the BT6500 handset which can block certain categories of call, for example international, withheld number, no

¹² http://www.citizensadvice.org.uk/index/policy/policy_publications/er_legal/the_claims_pests.htm

caller ID or payphone and specific numbers chosen by the caller. However for such equipment to function effectively, the line needs to have caller display enabled.

We believe that there is also a case for services such as anonymous caller rejection to be offered free of charge to customers experiencing nuisance, silent or malicious calls. We are aware that some of these are currently charged for—in some cases at approximately £4 a month. This level of outlay is not insignificant and it is unfair for people to have to pay to address a problem which has its roots outside their control. It is the equivalent of internet service providers charging for email spam filters. Blocking such calls would bring relief to many consumers. Given the expertise that industry has developed in these areas, it would also be of significant benefit if industry could improve the call tracing processes and consider potential solutions to the problem caused by calls of this nature made via VOIP. We are aware that Ofcom is working with industry on some of these areas and we would urge even more focus and ask that industry do more, sooner rather than later.

COMMUNICATIONS WITH CONSUMERS

The Panel was pleased to advise on the consumer guides published by Ofcom in October 2012 on preventing and complaining about nuisance calls and messages. By end June 2013, the guides have been viewed on the Ofcom website over 159,000 times. We are pleased to note that Ofcom has undertaken to review the guides in discussion with consumer groups and, where appropriate, update them by end 2013.

We also believe that there is much to be gained by a common set of guidelines, agreed between and shared by consumer-facing bodies—industry, public authorities and NGOs. While there is much useful information available currently, we would welcome reassurance that this is being consistently promoted across the relevant companies and agencies—and that consumers are being given the best advice possible. Trying to locate information on providers' websites is not always as easy as it should be, and appears to yield results of varying quality. Whilst many of the other actions that are being undertaken may require some time to come to fruition, this should be a relatively swift process.

CONCLUSIONS

From the evidence to date, nuisance calls and texts are not a problem that can be solved by technical means alone. Neither is tracing the perpetrators an easy task, given the variety of methods being employed and the easily transferable means of entry to the network. The Panel has encouraged Ofcom and the relevant authorities to work together to not only better identify the level of the issue but also to explore approaches which have been used to good effect internationally and to consider whether further legal instruments are required in discussion with Government.

In summary, while we welcome the work to date in this area, we would like to see it go further and more quickly. We would like to see greater collaboration leading to greater clarity for consumers; more swift and robust action against offenders; and more and better use of technical aids (CLI and call blocking) free to consumers.

I hope these comments are helpful. Let me stress again that the Panel sees this as a major issue for consumers and citizens. Should the Committee wish, we would be very happy to discuss matters in more detail if that would be useful.

August 2013

Written evidence submitted by David Robinson [NTC 034]

My name is David Kenneth Robinson. I am a retired police officer and am currently a part time student with the Open University, studying mathematics.

My submission is with regard to nuisance telephone calls.

By about August 2012 I had become increasingly irritated by repeated nuisance telephone calls to my home telephone number at the above address. The nature of these calls mainly fell into two categories. The first included unsolicited marketing calls and the second unsolicited scams, all of them in numerous disguises, ranging from the really quite cunning, down to the laughably implausible. Both groups for the most part, may be characterised by their repeated and persistent nature. Some of the most persistent appear to me to be using foreign call centres.

I joined the Telephone preference service but this appeared to have had little effect.

I then purchased a nuisance call management and blocking package from a company called "True Call" (I believe there are other systems on the market). This involved the purchase and installation of an electronic device that sits by my telephone. This system cured the problem immediately.

Please find below my incoming call analysis produced by my "True Call" system. The period covers the last 12 months from August 2012 to 31 July 2013.

INCOMING CALL ANALYSIS

<i>Handling</i>	<i>Count</i>	<i>%</i>
Rejected	262	48.1
Starred caller—call completed	134	24.6
Caller rejected	109	20.0
Starred caller—Chose not to leave a message	15	2.8
Starred caller—No answer—Message Manager	9	1.7
Caller sent to answering machine—no message left	7	1.3
Unrecognised caller—No answer—Message Manager	4	0.7
Unrecognised caller—Call Complete	2	0.4
Starred Caller—Caller Hung Up	1	0.2
Text message forwarded to handset	1	0.2

Please note that about 50% (138 calls) of the “Rejected” count consists of unsolicited calls believed to be from foreign call centres.

The “Caller rejected” count of 109 refers to specific telephone numbers that I have blocked using the system.

So, a total of 371 unsolicited calls were one way or another successfully intercepted then rejected by the system, more than one a day, every day.

In percentage terms 68.1% of calls to my home telephone number over the past 12 months have been in this unsolicited, unwanted, nuisance category. That is in spite of belonging to the Telephone Preference Service.

I do not believe the government, in any practical sense, will be able to stop nuisance calls being sent. I believe that the only effective way to stop them is to intercept and block them at the receiving telephone. This means installing individual call management/blocking systems to existing telephones and/or manufacturing telephones with the requisite system already installed. Mass manufacture should bring down unit costs and concessions could be made available for those unable to afford a unit.

Ubiquitous installation of these units will probably do more than anything to alleviate this problem.

July 2013

Written evidence submitted by StepChange Debt Charity [NTC 036]

INTRODUCTION

1. StepChange Debt Charity is the UK’s largest specialist provider of free, independent debt advice. The Charity offers support and solutions to over 400,000 heavily indebted consumers every year. In 2012 we helped clients repay £327 million in unsecured debt at no cost to either them or Government.

2. Evidence from our clients,¹³ included in this submission, shows that nuisance calls and text messages are not merely an annoyance; they can cause genuine harm.

Key problems caused by nuisance calls and texts:

- Mental health difficulties.
- Increased financial vulnerability.
- Fraud.

3. Problems often result from the unsolicited marketing via telephone of high risk unsecured credit products, such as payday loans, or fee-charging debt management services. **This is not banned by regulators**—a serious regulatory gap, especially considering the unsolicited sale of mortgage products in this way is banned by the Financial Conduct Authority (FCA) under MCOB 3.7.3R.

4. We believe the Committee should recommend the FCA bans unsolicited real time promotion of high-risk unsecured credit products and fee-charging debt management services. We will return to this point later in the submission.

In early 2013 a payday loans company called a StepChange Debt Charity client, Sarah, at her work. After speaking to one of her colleagues the company’s salesperson convinced them that he was an acquaintance of Sarah and managed to secure her mobile number. The company subsequently bombarded Sarah with nuisance calls. This left her feeling immensely vulnerable and under great mental stress.

In February 2013 a StepChange client, Amy, received an unsolicited marketing call (a “cold-call”) from a fee-charging debt management company (DMC), which convinced her to switch to an Individual Voluntary Arrangement (IVA) it operated. During the sales conversation the DMC

¹³ Research by the Department of Business, Innovation and Skills (BIS) has found that the demographic profile of StepChange Debt Charity clients is representative of people who seek debt advice from the not-for-profit sector as a whole.

informed Amy that it would “make up” the budget figures on which the IVA would be based and ignore some sources of income when making the IVA offer. Amy was not advised on any of the key basic of an IVA, for example that it is a legally binding process, and the possible ramifications of fraudulently supplied information. This has left Amy very vulnerable to having her IVA fail and becoming bankrupt.

Aaron received an unsolicited call from a company offering debt advice and agreed to a home visit. He was told that he could be debt free in twelve months. Convinced by the attractive offer, he agreed to cancel his contract with StepChange Debt Charity and signed papers to hand over financial control to the company. After the visitors left Aaron realised he had not been given any copies of the paperwork. He called the company and was subsequently sent paperwork that contained no confirmation at all he would be debt-free in 12 months.

THE PROBLEMS

Mental health difficulties

5. Debt is a key cause of mental health difficulties. The more debt people have, the more likely they are to have mental disorders overall.¹⁴ Over 90% of the over 5,500 people who used *Wellbeing*, the StepChange Debt Charity mental health diagnosis tool, in 2012 indicated they were suffering from some form of depression. **We are gravely concerned that constant nuisance calling can exacerbate mental health difficulties.**

6. Indebted consumers are often bombarded by nuisance calls, likely far more than most people. We believe on account of their financial history, their details are held by multiple financial services companies who sell them on to multiple third parties for marketing purposes. This increases the pressure on families, already being called many times a week by debt collectors, causing significant mental stress and leaving many scared to answer their telephones.

7. Indeed, one issue the Committee may want to consider is the overlap between nuisance calls and debt collection calls. Due to poor record keeping in many cases clients receive calls from firms chasing debt repayments from former residents of the same property, family members who have moved out or deceased relatives. In these instances such calls are not legitimate collections activity but nuisance calls themselves.

Walter went bankrupt three years ago and is unlikely to work again due to mental and physical health problems. Despite this payday lenders continued to contact him with offers. Walter now has eight payday loans from five companies and has accrued £3,194 of debt. Unable to repay, his loans are being rolled over at a very high cost. In one case Walter took out three £30 loans, repayable at £44 each. As he has been unable to settle these, he has been paying £10 a fortnight each to roll them over for around a year—about £260 extra in rollover charges for each loan. As a result of his debts he has been bombarded with calls, some as early as 6.30am, from payday lenders demanding repayment. For someone in Walter’s condition, this is adding serious mental and physical stress to his already vulnerable condition.

Nicola has had a debt collection company persistently ringing her parents’ house even though the company have been told on numerous occasions that she does not live there. The company has spoken to her 13 year old sister, telling the sister that the woman owes them a lot of money and they need to speak to her. This has resulted in huge family arguments over her financial situation.

Last year Zara was contacted by a company chasing a debt for £89 from 1975. This was not her debt, but her son’s—who had been dead for 10 years.

Increased financial vulnerability

8. Indebted consumers are more likely to take up services offered during a marketing call or by a text message. Over 40% of consumers in problem debt do not feel that they are able to take a reasonable decision about whether to take out their loans (compared to 30% of all consumers).¹⁵

9. Over a third of our clients have arrears on a priority bill, such as council tax, and therefore are liable to be visited by bailiffs chasing payment. Clearly for people in such desperate financial straits an unsolicited call offering a payday loan can be very tempting.

When already indebted consumers take up an offer of a high-risk product following a nuisance call the result can be devastating. Purchasing credit after a nuisance call can exacerbate financial difficulties and increase the pressure on hard-pressed families.

10. A survey carried-out with 950 of our clients in 2012 found that for 78% debt problems had affected their self-confidence/faith in their ability to support themselves or their family.¹⁶ What makes this particularly problematic is that companies either, a) have no awareness of the financial position of those they are calling and therefore no idea if they will create further difficulties, or b) understand that the people they are calling

¹⁴ World Health Organisation: Impact of economic crises on mental health: 2011

¹⁵ Mind: Still in the Red: 2011

¹⁶ StepChange Debt Charity: Statistical Yearbook; 2012

are vulnerable and attempt to sell them high-risk goods regardless. In the latter scenario companies are essentially preying on vulnerability in order to make profit.

A client, Paul, who was already on a DMP operated by the Charity, received a cold call from a fee-charging debt management company, claiming that StepChange Debt Charity would never get the client debt free. The company advised an IVA would help him become debt free quicker and convinced Paul to pay them £200 per month. After four months of payments Paul was informed that he had been unsuccessful in applying for an IVA, but that no refund would be given. However the company could set him up on another DMP for his debt—for a monthly charge.

Greg, a 74 year old man, was on a DMP with StepChange Debt Charity. He was contacted by a fee-charging DMC who offered to have the majority of his debt written off. Greg agreed to pay the DMC £150 per month and maintained the payment for seven months. He was consequently contacted by his creditors and informed that they were receiving only a £1 per month token payment. Greg called the company to find out what was happening. He was informed that his money was being kept and saved until a full and final payment can be made in the future. However the fee-charging DMC was taking 82.5% of the monthly amount for their fees. Along with the £1 token payment this left only £20, a negligible amount compared with the original £150, to be saved per month. What Greg has already paid to the company is non-refundable.

Fraud

11. Because consumers on the receiving end of a nuisance call or text can often be vulnerable, unscrupulous operators have opportunity to engage in fraudulent activity. The charity sees examples of cases where, for example, clients have money taken from their account after giving credit or debit card details “for identification purposes only” during a telephone call. In other cases clients have been persuaded to make payments on debts they do not hold by companies calling them out of the blue.

A financial services company recently spoke to our client, “Mr Fowler”, about an outstanding debt. The client, who had been going through a stressful time dealing with the impending death of his father, started a payment instalment to repay the debt. The company then increased the instalment amounts, causing him to question what the debt was for. It transpires that he had no debt at all, but the company had been contacting many “Mr Fowler(s)” in the local area demanding payment. After writing to complain the company refused to offer a refund or even look into the matter.

Laura was contacted by a legal service company, acting on behalf of a payday lender. The caller demanded that Laura pay £300 within 45 minutes or else a court would be contacted and she would be arrested. Laura has no record of borrowing from the lender. Asking for proof of the debt, Laura was subjected to verbal abuse from the caller, threats to play the recorded phone call in court and told that she would be visited by the police the next day at work. The caller then hung up. Laura was badly shaken by the incident and called StepChange Debt Charity for urgent advice.

WHY PROBLEMS HAVE ARISEN

12. Nuisance calls and texts have proliferated and are proving increasing detrimental to consumers for several reasons.

- Confused and weak legislation.
- The ease with which firms can acquire consent to share consumer data for marketing purposes.
- Under-powered/under-resourced regulators.
- Serious gaps in the protection offered by the Telephone Preference Service (TPS).

Confused and weak legislation

13. The current legislation governing nuisance calls is perplexing and poorly joined-up. For example, while the unsolicited marketing of mortgage products by telephone is prohibited by MCOB 3.7.3R, it is allowed for unsecured credit products and fee-charging debt management services—*unless* it is via text, picture or video messaging when it is banned by the Privacy and Electronic Communication Regulations (PECR) 2003.

14. Such confusion is exacerbated by weaknesses with the overall legislative framework. Key pieces of legislation, such as the Data Protection Act (DPA) 1998 and PECR are not strong enough to prevent abuses of consumer data leading to nuisance calls. Just a few examples demonstrate this:

- Currently the balance of proof is with the consumer to prove their data has been misused, rather than with companies to prove they have not misused data. This makes it far too easy for unscrupulous companies to act badly.
- The DPA allows companies to repeatedly exploit consumer data by letting them reuse it if the new use is for a different purpose than for which it was collected.
- Companies do not have to compensate consumers for psychological harm caused by the misuse of personal data. This leave individual vulnerable to harassment and intensive sales techniques.

15. Compounding both these problems is the fact regulatory oversight of nuisance calls is divided between multiple parties—Ofcom is responsible for enforcement on silent and abandoned calls, while the Information Commissioner’s Office (ICO) is responsible for live and recorded marketing calls and spam text.

16. All these issues have conspired to leave consumers in a vulnerable position and utterly confused as to their rights in relation to nuisance calls and to whom they should complain.

The ease with which firms can acquire consent to share consumer data for marketing purposes

17. A root cause of the growth in nuisance calls is the simplicity with which firms can acquire consent share consumer data for marketing purposes. It is far too easy for firm to gain permission to share data extensively via a simple “tick-box” or through the “soft opt-in”. The soft opt-in provision of PECR allows consent to be gained by firms in the course of a sale or negotiation of a product or service, *even if the sale is not completed*.

18. This is problematic because there are minimal limits on how long consent is considered valid and when and how personal data can be shared. ICO guidance on the two issues is remarkably unclear. For example, on the former the ICO guidance merely states consent for marketing purposes remains valid “until there is good reason to consider it no longer valid”.¹⁷ On the latter, although the ICO guidance says personal information on a database should not be sold unless the individuals on it have been told this will happen, in cases “where a business is insolvent, bankrupt, being closed down or sold” this does not apply.¹⁸

We are concerned this has resulted in a situation where on average an individual’s personal data is held on 700 separate databases, increasing hugely the chances of them receiving nuisance calls from multiple parties.¹⁹

Under-powered/under-resourced regulators

19. Firstly, the ICO does not currently possess the right tools to protect consumers when they have been affected by nuisance calls. This is primarily related to data protection powers, where breaches can lead to nuisance calls. For example, when companies fail to update contact details or allow personal details to be sold without a proper record of whether individuals are signed up to the Telephone Preference Service (TPS).

- The ICO cannot currently take enforcement action as a result of a data protection breach; it can only do so if it proves substantial damage or distress occurred as a result.
- Even if substantial damage or distress is proved the ICO has no power to award compensation to individuals as a result.
- When conflict arises over whether consent for data sharing has been given the burden of proof is on the individual, rather than the company.
- PECR does not cover firms selling on personal data, only those that conduct direct marketing.

20. Secondly, as a recent report from the London School of Economics pointed out, the ICO and Ofcom do not have sufficient resources to tackle the growing problem of nuisance calls. Since March 2012 the ICO has received over 200,000 complaints to its “snap survey” on nuisance calls, Ofcom receives over 10,000 complaints a month. However, the two regulators between them appear to have fewer than 20 full-time equivalent staff members to deal with the problems in this area.²⁰

21. This secondary problem is likely to get worse if the incipient EU General Data Protection Regulation is implemented in its entirety. The House of Commons’ Justice Committee predicted that if this happens the ICO is in danger of having its funding reduced by £42.8 million.

Serious gaps in the protection offered by the Telephone Preference Service (TPS)

22. The TPS is a sign-up service designed to help households block unwanted nuisance calls. However, it is currently proving ineffective at doing so—even when people are signed up with the TPS they still receive on average 10 calls a month.²¹

- The current 28-day waiting period for registering with the TPS and the service coming into effect is far too long for vulnerable families being constantly bombarded with unsolicited sales calls.
- The service does not stop calls from overseas. On this point we question why it is possible to purchase a service from a national telephone company that stops such calls, but a Government sanctioned organisation like the TPS cannot do the same.
- There is no function to prevent unwanted text, picture or video messaging.

23. While the TPS continues to fail to fulfil its function it reduces faith in the effectiveness of regulation, and undermines trust and reliance on the telephone. However, more importantly, for consumers it contributes

¹⁷ Information Commissioner’s Office: *The Guide to privacy and electronic communications*; p 4

¹⁸ Information Commissioner’s Office: *Buying and selling customer databases*: Version 2.1: 2012

¹⁹ Information Commissioner’s Office: *What Price Privacy?:* 2006

²⁰ London School of Economics and Political Science: *Nuisance calls—A case for concerted Action*: 2013

²¹ Which? nuisance calls and texts campaign: July 2012

to the problems identified above—mental health difficulties, increased financial vulnerability and fraud. Leaving exposed those who believed themselves to be protected.

POTENTIAL SOLUTIONS

24. The area of nuisance calls is a complex one. However, there are some areas the Committee may wish to focus on when formulating its recommendations.

- (1) A significant regulatory gap, one which causes huge consumer detriment, is the allowing of the unsolicited marketing of high-risk unsecured credit products and fee-charging debt management services via telephone. We believe the FCA should consider banning unsolicited real time promotion of high-risk unsecured credit products and fee-charging debt management services.
- (2) Current guidance surrounding acquiring consent to market products and share personal data lacks clarity. It would be in the long-term interest of the consumer to put in place stricter rules on obtaining consent and how long this consent can be held for. Consent must be bounded, so that consumers know who holds their data, and how long the data can be used for marketing purposes.
- (3) Considering the rapid growth of nuisance calls the ICO in particular appears to lack capacity. Innovative ways to address this problem could be considered. For example, the Justice Committee (see above) recommends, a) allowing any current FOI funding surplus to be used for data protection purposes, and b) increasing funding of the ICO from central Government.
- (4) The TPS needs to be strengthened and filtering systems for text messages developed, so that consumer belief in the service recovers. In particular the Government may want to consider working with telephone companies to ensure that consumers registered with the TPS cannot be targeted by calls from outside the UK.

25. It is important that Government, regulators and consumer groups work closely to ensure the best protection from nuisance calls. A comprehensive package of measures addressing the problem will help protect consumers from unsolicited marketing, reduce financial vulnerability, fraud and give households confidence they know who has their details. StepChange Debt Charity is happy to work with any individual or organisation keen to make such positive changes.

August 2013

Written evidence submitted by Tom Brake MP [NTC 038]

Thank you for the opportunity to submit evidence to the Culture Media and Sport Select Committee in respect of nuisance phone calls. I hope this can still be considered, although it will be received after the deadline.

My constituents tell me that the greatest nuisance is where people get round the TPS rules by phoning landlines from numbers abroad, and that there should a simple cost-free way for people to block such calls.

International action may be necessary in order to improve the filtering of such calls.

They also believe that the complex arrangements for policing these calls involving telecom companies, the Information Commissioner and Ofcom etc are unreasonable. There should be a single contact point for resolving nuisance calls quickly. (see "Which's" comments at <http://www.which.co.uk/consumer-rights/action/how-to-deal-with-unwanted-phone-calls-/?gclid=CLCzI7aTtLgCFfQetAodfxYA2w>)

Many believe it should not be necessary to re- register TPS protection for businesses every year; the authority given by a telephone customer should be regarded as permanent until rescinded.

August 2013

Written evidence submitted by Stuart Andrew MP [NTC 039]

Thank you for informing me about the above inquiry. One of my constituents who has experienced such calls was delighted to hear about the inquiry and forwarded the information below for your attention.

"I would like to point out that I have been registered with the TPS for many years but find this service generally ineffective as most 'cold and dead callers' tend to ignore this registration and withhold their numbers. Perhaps the Committee should also look into outlawing the withholding of a caller's number. After all, if it's a genuine call why should the caller choose to withhold his/her number?"

July 2013

Written evidence submitted by Toynbee Hall [NTC 040]**ABOUT US**

Established in 1884, Toynbee Hall is an innovative and multi-purpose social welfare charity that aims to be the place where people come for excellent local services. It is a place where people can share ideas and experience and gather information and knowledge that we can use together to take action to change lives and eradicate poverty in Britain.

Every year, Toynbee Hall works with around 9,000 service users, more than half of whom live in the London Borough of Tower Hamlets, which continues to be one of the most deprived local authorities in the country. Our work covers four different programme areas: advice, community learning, financial inclusion and wellbeing. Our service users are diverse and include some of the most vulnerable and disadvantaged including young and older people, women involved in street-based prostitution, new migrants, individuals who are financially excluded, people facing serious legal issues, as well as those from various different communities, particularly the local Bangladeshi population.

We also work with organisations serving both the general population or excluded groups, supporting them to deliver more financially inclusive services and reduce the negative impact their business model has on customers' financial health. We draw on our front line work and our work with organisations to inform policy matters concerning market failure and the gaps which occur between intended policy and real life practice.

Transact, a project of Toynbee Hall, is the National Forum for Financial Inclusion. Transact is a movement of over 1,200 organisations and individuals dedicated to practicing and promoting financial inclusion for the benefit of individual people experiencing hardship and poverty as a result of financial exclusion. Members include advice agencies, housing providers, third sector lenders, other community and voluntary organisations, funders, central and local government, banks, social enterprises, and training and employment agencies.

Transact serves the sector in many ways, specifically by: providing the latest financial inclusion news, information, events and jobs through our website; designing and holding regional and national events; creating and managing funding opportunities for members, and hosting the most comprehensive library of financial inclusion research and resources for people to access.

Toynbee Hall supports the Department for Culture, Media and Sport (DCMS) in its changes to the Communications Act 2003 which will allow information to be shared between Ofcom, the Information Commissioner's Office (ICO) and Insolvency Service (IS). We are concerned with the impact of nuisance calls and texts from companies and we stress the need to break down existing barriers to enforcement of regulation. By implementing this change, the regulatory bodies will be able to take a more cohesive approach towards regulating nuisance calls. Toynbee Hall also supports recent ICO action of imposing financial penalties on the worst offending companies and publishing their names on its website.

In theory, the Telephone Protection Service offers a free, solid solution for individuals, that can be regulated and enforced by law and we support the concept. However, it is a significant and continuing problem that the system is not effective. Customers that have registered their phone numbers are still receiving calls. In some cases, customers will receive several cold calls a day from companies. This is frustrating and distressing for individuals who have already gone to the effort of registering themselves. As a result of lax regulation, companies are often ignoring legislation completely. The proposed changes in legislation will strengthen the regulatory force by allowing collaboration of the two relevant official bodies.

However, there are further issues that need to be addressed. The complaint system, along with registration with TPS, is cumbersome and time-consuming. Registration alone can take up to 28 days to become fully effective. For those already registered and still experiencing problems, complaints can be made via the TPS website. However, as TPS is not responsible for enforcement, it can only offer to inform the ICO of complaints made about companies. It is the decision of the ICO whether to act on this information or not. This decision is normally dependent on the trends of complaints rather than each individual complaint. Toynbee Hall urges that it should be made easier for receivers of nuisance calls, particularly those registered on TPS already, to make complaints and to see results.

Furthermore, action needs to be taken to address the loopholes that exist for companies to use cold-calling techniques. Companies are able to conceal their identity and telephone number when calling customers, meaning that the receiver has insufficient information needed for a complaint. Toynbee Hall endorses the removal of the ability for companies to conceal themselves. Silent calls, automated calls and "market-research" calls are left uncovered by the TPS. It is unclear whether receivers of these calls are to complain to the ICO, Ofcom or some other regulatory body. These loopholes need to be addressed and as said earlier, an effective complaint system needs to be established that works in a timely manner.

At Toynbee Hall, our Financial Inclusion team is particularly concerned with the problems associated with nuisance calls from financial companies, such as debt management companies and payday lenders. The people that receive help from Toynbee Hall in programmes such as Debt Advice and Financially Inclusive Tower Hamlets are often in a vulnerable financial situation. A cold call or text advertising a company's services is considered by most people a nuisance. However, these calls can have much more concerning effects on an individual, especially if the individual is already in a situation of financial instability.

Nuisance calling can have detrimental effects on the receiver's wellbeing:

- (i) Receiving calls can cause frustration and distress for the person at the receiving end. This may stem from the confusion about how their contact details were obtained, the inconvenience of the call, feeling pressurised to buy into a product and other reasons. Silent calls often occur when the automated message fails to work due to the system being overloaded. For those receivers who might not be aware of this happening, the call can be unnerving, let alone irritating. Some receivers may feel victimised, especially if the receiver suffers from mental health problems.
- (ii) It can cause or perpetuate users' financial problems by encouraging them to make ill-advised financial decisions under pressure. Direct marketing through telephone or texts can be predatory, by targeting individuals that are financially vulnerable. These individuals may be more likely to buy-in to tempting, yet dangerous credit options.
- (iii) In some cases, callers posing as a company can lead the receivers to divulge bank details over the phone, causing the receivers to become victim of theft.

Staff members at Toynbee Hall have worked with residents of the local community in Tower Hamlets, some of whom have spoken of their own experiences: in some cases, residents would receive up to 20 calls a day from payday lenders, leaving them feeling harassed.

On top of this anecdotal evidence from our service users, there is growing proof that nuisance calling is afflicting the financially excluded across the nation.

A March 2011 Citizens Advice Bureau (CAB) briefing brought forth evidence on two related practises: cold calling in the debt management industry and the charging of up front fees to financially vulnerable consumers by credit brokers. It emphasised that: "...cold calling has resulted in unauthorized deductions from the bank accounts of consumers who have been persuaded to part with their payment details." The briefing concluded by advocating the amendment of the 1974 Consumer Credit Act to prohibit cold calling from consumer credit businesses.

More recent CAB research indicated: "...a direct correlation between shoddy financial services, cold calling and lead generation—where people's details are passed on without their apparent permission." Analysing 1,845 calls made to CAB's consumer service between January and February 2013, the study found that 35% contained evidence of cold-calling, out of the blue texts, letters and spam e-mails. Over half of the complaints, moreover, came in relation to financial services which impact strongly on the financially excluded (credit brokers: 710 calls; payday lenders: 281 calls; debt management: 129 calls; debt collection scams: four calls).

Further CAB research also revealed that, between April 2012 and March 2013, the consumer service dealt with over 30,000 complaints about cold calling for a range of products and services.

Concern has also been expressed at the way in which controversial payday lending companies have used cold calling. This is exemplified by the fact that Consumer group Which? includes—on the "problems" section of its website—a consumer issue to do with people being bombarded with offers of loans from many payday loan companies after they have used one.

Adding to this concern is the fact that payday loan companies are using companies like T3leads, which specialise in providing payday loan leads which allow firms to target specific consumers.

August 2013

Written evidence submitted by Brookmead Consulting [NTC 041]

REVEALING THE IDENTITY OF NUISANCE CALLERS

1. SUMMARY

- We propose that Ofcom's current Persistent Misuse Statement is amended to include the following provisions:
 1. All telemarketing calls should carry a valid and returnable Caller-ID.
 2. If the called party rings the caller ID that was delivered by a telemarketing call it should be answered by a person or a recorded message identifying the company, and the caller should be given the opportunity to opt out of receiving further calls from that company.
 3. If a company carries out telemarketing it must register the Caller-IDs it uses with a central publicly accessible register.
- This is proportionate—these provisions are already part of the Direct Marketing Association's self-regulatory code of conduct, they mirror provisions already in Ofcom's Persistent Misuse Statement for calls made with Automatic Calling Equipment, and the key provision has been a legal requirement in the USA since 2004.

- They can be introduced quickly without primary legislation. Similar changes were made by Ofcom in 2010 in just four months. Allowing for a three to six month transition period for call centres, these changes could become effective within a year.
- This would give information and power to consumers who would feel less helpless in the face of these calls.

2. THE PROBLEM

2.1 The anonymity that the telephone system can offer makes it difficult for individuals and regulators to identify and report nuisance callers. Many calls centres do not transmit a Caller-ID. Recent research identified that around 48% of nuisance calls arrived without a diallable Caller-ID. Of these, 26% were from international call centres, 11% from call centres which withheld their number, 6% were from call centres where the caller's number wasn't available (generally VoIP numbers), and 4% do transmit a Caller-ID but the number is invalid eg "0", "0000" or "0501".

2.2 Even where the Caller-ID is valid it often only gives the unobtainable tone or continuous ringing when called so the caller cannot be identified.

2.3 Many individuals find it disturbing that they can't identify who is calling them. Alun Cairns MP made the point about call centres withholding their numbers very clearly:

“I suppose it could be compared to someone knocking your door wearing a mask or balaclava. Would we answer the door to such an unknown caller? Of course we wouldn't. Then why do we allow it over the phone?”

2.4 Even when companies do give their names during a telemarketing call they often use misleading or generic names that can't be traced back to a real company—for example “The Debt Advice Line”, “Personal Injury UK”, “The Energy Advisory Front”, “The UK Energy Assessment team”.

3. THE SOLUTION—CHANGES TO OFCOM'S PERSISTENT MISUSE STATEMENT

Consumers need to be able to use the Caller-ID information presented with a call to identify the company that called them. They should be able to do this either by calling the Caller-ID provided with the call, or by looking up the Caller-ID on a public database. The solution shouldn't place an undue burden on legitimate calls centres.

We propose that Ofcom implements this by introducing three provisions into its Statement of Policy on the Persistent Misuse of an Electronic Communications Network or Service.

3.1 *Provision 1—All telemarketing calls, charity fundraising calls and debt collection call should carry a Caller-ID*

3.1.1 This provision already applies to call centres who call using Automatic Calling Systems—we are just proposing that it is extended to all call centres.

Potential objections

3.1.2 A company could argue that it has a need to protect its identity. If a company can prove it has a particular need to withhold its number then there could be an exemption granted by Ofcom, but it is difficult to think of a circumstance where this is required. An exemption of this sort isn't part of the US legislation nor part of the current Ofcom Automatic Calling System requirements.

3.1.3 Some call centres use the same number to call on behalf of a variety of clients, so when the individual calls them the agency may find it difficult to easily identify which client they called from. Agencies that use Automatic Calling Equipment should be already be compliant with this provision, so there are systems available to do this.

3.1.4 Overseas call centres cannot easily send a Caller-ID. Ofcom's Persistent Misuse Statement in 2010 said “Ofcom reluctantly accepts that the technological limits of international networking may result in some dialler calls being delivered to the UK without CLI identification but flagged ‘international’”. Telecoms technology has advanced since 2010 and it is possible for calls from overseas networks to “break out” into the UK network via a UK number. Overseas call centres would complain that this would add costs for them, but we would argue that it would be unfair for a UK call centre to be subject to more stringent regulation than an overseas call centre (in any case many of these companies are calling on behalf of a UK call centre). A large proportion of nuisance call complaints are about international call centres so they should be required to be compliant.

3.2 *Provision 2—The Caller-ID must be returnable, must identify the company and allow the individual to opt out from future calls*

3.2.1 When the individual calls back the Caller-ID that was delivered they must either speak to a live agent or hear a recorded message. They must be able to identify the company who called them and have the

opportunity to opt out of receiving further calls. Companies mustn't use this call as an opportunity to market their product unless the individual asks to be put through to a sales agent.

3.2.2 It is important that sufficient details are given for the caller to identify the company. "You were called by The UK Energy Assessment team" is not sufficient. Callers should be told the full company name and address

Potential objections

3.2.3 Companies may object on the basis of cost, but with a simple answering machine you can play a message to a caller giving details of your company, and record any caller's request not to be called again. This is already a requirement for those who use Automatic Calling Systems.

3.3 Provision 3—*If a company carries out telemarketing it must register the Caller-IDs it uses with a central public register*

3.3.1 There are already a number of databases on the web to help you look up a company name from a phone number—most notably www.WhoCallsMe.com. Since these are crowdsourced the data is unvalidated and may be maliciously manipulated.

3.3.2 We are proposing that a database be set up and managed that holds the Caller-ID and details of the calling company. This would include the company's full name and address, and an email address that the individual could use to ask them not to call again.

3.3.3 The database would be "open access" so developers can access or download the data and write their own tools to use the information, for example:

- Existing crowdsourced database such as www.WhoCallsMe.com could link to this database and alongside public comments could show accurate and verified information about the company that made the calls.
- Nuisance calls to mobile phones are a growing problem. If access to the database were made open to third parties then app developers could provide services that tell you the name of the company who is calling you when you receive their call. This open interface model has been hugely successful for Transport For London who, by allowing access to real time data about bus and train arrivals and the availability of bicycles for hire have encouraged a huge variety of apps to be developed (<http://www.tfl.gov.uk/businessandpartners/syndication/16493.aspx>)

3.3.4 Someone would have to build and maintain this database—the natural place for this is the Telephone Preference Service and it could be funded by the telemarketing industry by a small increase in fees (Note that fees for call centres access to the TPS have fallen in recent years).

Rogue companies

3.4 It can be argued that the rogues will ignore all three provisions, but this is not a reason not to introduce them. The costs of these provisions on call centres are modest, and once they are introduced it will be very evident when a call centre doesn't comply. It will be easy for enforcement agencies to prove non-compliance and take action.

Spoofed Caller-IDs

3.5 It is possible for call centres overseas or those using VoIP systems to send a Caller-ID that is not their own either to hide them or to implicate another company. We have submitted a proposal to Ofcom and the NICC about how this problem could be addressed.

4. IS THIS PROPORTIONATE?

4.1 It is important that any new regulation introduced is proportionate—that it doesn't unduly impact the legitimate telemarketing industry.

4.2 It would be difficult for the industry to argue that the provisions we are proposing were disproportionate because all three have been part of the Direct Marketing Association's Code of Practice for a number of years (see note 1 below). We would expect the industry to welcome these changes to level the playing field and introduce this best practice across the whole industry.

4.3 The first provision we are proposing—the mandatory use of Caller-ID for telemarketing calls—has been a legal requirement in the USA since 2004 (USA Telemarketing Sales Rule 16 CFR Part 310—see note 2 below). The Telemarketing Sales Rule also requires this to be a number "which is answered during regular business hours". It has also been required in the UK since 2008 for those who use Automatic Calling Systems under Ofcom's Persistent Misuse Statement (see note 3). This Statement also requires that this is a number "to which a return call may be made"—this is the key element of the second provision we are proposing.

4.4 The provisions we are proposing pass the test of proportionality—they are already implemented in the legitimate call centre industry, parts of them are already a requirement in the UK under certain circumstances, and parts of them have been a legal requirement in the USA for nearly 10 years.

5. IMPLEMENTATION

5.1 Ofcom already have powers to fine those who persistently misuse an electronic communications network or service. The definition of “Misuse” was set out in a Statement in 2006 that was revised in 2008, 2009 and 2010 to reflect changes in the telecoms landscape. Generally Ofcom revise the Statement after a consultation. This was the process that was carried out when they amended the Statement in 2008 to require users of Automated Calling Systems to pass on a Caller-ID to which a return call can be made.

5.2 This can be done in just a few months—in 2010 Ofcom published a consultation paper on 1st June, closed the consultation on 27th July and published the new Statement on 1st October.

5.3 It wouldn’t be reasonable to expect call centres to become compliant immediately. It may take three to six months for call centres to reorganise themselves to meet these new requirements.

6. CONCLUSION

6.1 The three provisions we are proposing would give consumers much more information about who was calling them. With more information available market forces would then take over:

- The companies who abused their relationship with their customers would be identified and would lose business.
- People would receive fewer calls from organisations which didn’t pass on a Caller-ID, so rogue operators who didn’t comply with these provisions would find fewer people prepared to answer their calls.

The proposed approach will be effective, is proportionate, will not damage the legitimate call centre industry, and can all be achieved quickly without primary legislation.

August 2013

Note 1

DIRECT MARKETING ASSOCIATION CODE OF PRACTICE, 4TH EDITION, FEBRUARY 2012 VERSION

Caller Line Identification	21.40	When undertaking outbound calls, members must provide caller line identification to which a return call may be made which is either a geographic number or a non geographic number adopted as a Presentation Number which satisfies the Ofcom Guide to the use of Presentation Numbers
Information to be given when calling through CLI	21.41	Consumers calling back on the number provided through caller line identification must, either by live operator or a recorded message, be informed: <ol style="list-style-type: none"> a) the identity of the organisation on whose behalf the call was made (which may not necessarily be the same organisation that makes the call) b) an opportunity to decline further calls from that organisation. Where the recipient phones to decline further calls, they may be informed that this is not an option because of the circumstances of the call, for example debt recovery, customer service, credit management. If a further call is required, this must be on the same basis as 21.33 below c) the message must not include any marketing material and must not be used as an opportunity to market to the recipient.
Publication of network and presentation CLIs	21.42	Members will record and keep up to date details of: <ul style="list-style-type: none"> — Organisation name — Contact details for those who wish to be added to their in house do not call list — Network CLIs that they use — Presentation CLIs that they use — CLI text that they forward. This data must be supplied to the Association and will be kept by them on an internal database. This information will be available to the Nuisance Call Bureaux and the public for purpose of allowing them to quickly identify the companies that are calling them.

http://www.dma.org.uk/sites/default/files/PDF/Code%20of%20practice/COP_scheme4-Feb2012.pdf

Note 2

USA TELEMARKETING SALES RULE 16 CFR PART 310

Telemarketing means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call.

§ 310.4 ABUSIVE TELEMARKETING ACTS OR PRACTICES

(a) Abusive conduct generally . It is an abusive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

- (8) Failing to transmit or cause to be transmitted the telephone number, and, when made available by the telemarketer's carrier, the name of the telemarketer*, to any caller identification service in use by a recipient of a telemarketing call; provided that it shall not be a violation to substitute (for the name and phone number used in, or billed for, making the call) the name of the seller or charitable organization on behalf of which a telemarketing call is placed, and the seller's or charitable organization's customer or donor service telephone number, which is answered during regular business hours.

http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title16/16cfr310_main_02.tpl

* In the UK the networks don't allow the transmission of the name of the telemarketer

Note 3

REVISED STATEMENT OF POLICY ON THE PERSISTENT MISUSE OF AN ELECTRONIC COMMUNICATIONS NETWORK OR SERVICE 2010

FOR CALLS MADE USING AUTOMATED CALLING SYSTEMS

- A1.56 For each outbound call a Caller Line Identification (CLI) number is presented to which a return call may be made which is either a geographic number or a nongeographic number adopted as a Presentation Number which satisfies the Ofcom Guide to the use of Presentation numbers.
- A1.57 Ofcom reluctantly accepts that the technological limits of international networking may result in some dialler calls being delivered to the UK without CLI identification but flagged "international". In these circumstances it is even more vital that such centres use the information message and a UK based number so that they may be contacted by called parties after an abandoned call.

ALL TELEMARKETING CALLS—MISUSE OF A CLI FACILITY

- A1.69 CLI (as defined earlier) is a technology that identifies the number from which a call is made or enables a return call to be made. Ofcom will regard the repeated forwarding of inauthentic or misleading CLI information as persistent misuse. Where users have the ability to choose the CLI number that is forwarded (this is known as a Presentation Number), the deliberate sending of an inauthentic or misleading number from which it is not possible to identify the caller and which does not enable the recipient of a call to return a message is a form of misuse. This is without prejudice to a caller's right to preserve their anonymity by withholding their number.
- A1.70 It will also be regarded as a form of misuse to forward a CLI number that has been allocated to a Premium Rate Service provider. A return caller may suffer annoyance or inconvenience by unwittingly making a return call for which they are charged more than they may reasonably expect.

<http://stakeholders.ofcom.org.uk/binaries/consultations/silentcalls/SilentCalls.pdf>

Written evidence submitted by CPR Global [NTC 042]

In response to the invitation to contribute to the new inquiry into nuisance telephone calls and text messages being carried out by the Culture, Media and Sport Committee. CPR Global which manufactures the CPR CallBlocker would like to submit the following evidence. CPR Global were not aware about the call for information to the inquiry hence the fact this document arrives after the stated deadline. We hope you can still consider this information.

The Nuisance Calls Industry is a national epidemic. It is a serious and endemic problem which causes financial and mental devastation to silent victims of fraud.

Consumer confidence in the telephone as a marketing medium has been tarnished by aggressive sales tactics, mis-selling and scams. Over three billion telemarketing calls are made every year. 70% of phone owners say they have been victim of a phone scam and 98% of the population want to see a ban on unsolicited telephone calls.

Targeted victims of nuisance and scam calls are likely to lose their independent living, have stress related problems, mental health problems and anxiety resulting in a shortened life expectancy and an increased demand on public health, adult social services, enforcement agencies and the voluntary sector.

The CPR CallBlocker, manufactured by CPR Global, enables users, particularly vulnerable people, to block any number they don't want to call them again. It has passed rigorous tests by the Association of Chief Police Officers (ACPO) to gain the status handed out by the Secured by Design licence scheme. Secured by Design is a flagship UK police initiative by ACPO to help "design out" crime through the use of high-quality innovative products and processes. Devices under this brand have been proven to reduce the risk of crime and the fear of crime by up to 75%. The CPR CallBlocker is now endorsed by all UK police forces as both a preventative and reactive means of stopping unwanted and threatening calls.

CPR Global is already working with UK Trading Standards officers and a number of charities such as *Think Jessica* to protect vulnerable adults from the impact these calls can have.

A pilot scheme run by Trading Standards officers in Scotland has just been heralded a resounding success in cutting the amount of nuisance calls being dealt with by residents.

The CPR CallBlocker blocks any cold caller plus has additional features to prevent any area code, any group of numbers including spoof numbers, withheld, international calls and VoIP calls should the customer require it. Pre-programmed with 200 of the most common nuisance callers it starts working as soon as it is plugged it into a landline.

The device's block now button also enables the user to add an additional 1,000 numbers over and above the pre-programmed list at the touch of a button.

The 200 pre-programmed numbers are the worst offending companies known to the Call Prevention Registry. The Call Prevention Registry is run by CPR Global and is similar to the TPS in the sense that it is a list which people sign up to if they do not wish to receive cold calls. However, The Call Prevention Registry also includes international calls which the TPS doesn't. The Call Prevention Registry has over 600,000 people registered via their website.

It is CPR Global's belief that withheld numbers should no longer exist and that all numbers should be transparent via call ID to the recipient.

The 200 companies are based both in the UK and International. Companies from abroad are increasingly re-routing through the UK buying batches of UK numbers so the impression is given that they are based here. Some are also using spoof numbers which are not real but will appear on your caller ID. This means that the CPR CallBlocker is still able to block them.

The TPS doesn't work on international calls where most overseas call centres are based so is ineffectual. Unscrupulous companies who wish to ignore the TPS list can do so without much action by OFCOM or the ICO as there isn't much legislation to prevent companies ignoring the TPS list.

The CPR CallBlocker is another option for people plagued by nuisance calls for whom the TPS isn't working.

When the inquiry discusses technological alternatives as a proactive tool in the fight against the nuisance calls industry, CPR Global would like to be considered by the Select Committee as one of the solutions to this growing problem.

Written evidence submitted by J Birrell [NTC 043]

NUISANCE CALLS

The current bodies involved with nuisance calls are not fit for purpose. There are three. The TPS registers individuals who do not wish calls. Complaints made to the TPS are forwarded to the other two for action.

In practice four or five companies have been prosecuted and fined. Reported nuisance calls should initiate an active policing action.

All the different types of calls are known and should be dealt with in the same way.

<http://consumers.ofcom.org.uk/2012/10/tackling-nuisance-calls-and-messages/>

A single body eg the TPS with prosecuting powers would suffice if the laws were suitably changed and fixed penalties applied. These would escalate for repeat violations. Currently the impression is that no action is taken until a very lengthy monitoring of violations has been completed. Almost always no action is taken.

THE ACT PASSED IN THE USA SEEMS TO COVER MOST EVENTUALITIES

FCC Congress passed the Telephone Consumer Protection Act in 1991 in response to consumer concerns about the growing number of unsolicited telephone marketing calls to their homes and the increasing use of automated and pre-recorded messages. In response, the Federal Communications Commission adopted rules requiring anyone making a solicitation call to your home to provide his or her name, the name of the person or entity on whose behalf the call is being made and a telephone number or address at which that person or entity can be contacted.

Working with the Federal Trade Commission, the agency developed the national Do Not Call Registry, which applies to all telemarketers and covers interstate and intrastate telemarketing calls. Commercial telemarketers are not allowed to call you if your number is on the registry, subject to certain exceptions.

<http://www.fcc.gov/topic/do-not-call>.

Occasionally a company is given permission to make contact by phone. This number is sometimes sold on. After three months the permission could lapse.

There are many ways to prevent unwanted calls. They usually involve an expensive box or an added fee to the phone company. This should not be necessary.

In many cases the caller's number is withheld. The phone company, time and date of the call should be sufficient if the enforcing company is given the necessary powers. Nuisance callers are HACKING into a line paid for by an individual. It should be treated as HACKING.

July 2013

Written evidence submitted by Group Utilities [NTC 044]

We understand that there will be a review of the increasing problem of nuisance calls in the UK. We apologise for the lateness of our comments.

Our company, Group Utilities have developed a community blocking and filtering systems and we would be most interested to participate in any debate on this subject.

THE PROBLEM

Whilst the TPS and ICO have their roles to play, there are shortcomings with the current system which are generally understood.

Many telemarketing companies either ignore the TPS (considering the risk that they will be pursued to be slight) or seek ways to circumvent the system by purporting that they are not actually selling anything and/or by using overseas entities to conduct marketing activities.

TPS & ICO

It is our view that, while additional powers and legislative changes for bodies like the TPS and ICO may help, this is never going to lead to a large-scale reduction in nuisance calls. Retroactive action against companies is slow, costly and ultimately ineffective. In addition, for every offender that is brought to account, more appear to take its place.

COMMUNITY GENERATED HERD VACCINE

We have developed a cost-effective, community based service to enable our customers to avoid virtually all unsolicited calls as soon as they connect.

By way of explanation of this new approach, once a pre-set number of clients receive the same nuisance call and block it, our database records the blocked number. As all users do this, the nuisance number database is automatically generated by the called parties, in real-time. The database then updates the blocking tables for the thousands of our other clients (who will never again hear the phone ring).

We believe that this form of pre-emptive action will prove many times more effective than any retrospective action in curtailing the prevalence of unsolicited cold calls throughout the nation.

SUGGESTIONS

Even though we have improved the situation, we would like to see the companies that are entered on our blocklist being pursued swiftly and effectively by the appropriate authority.

To that effect, we have incorporated a call recording facility in order to gather the appropriate proof of abuse for the ICO/TPS or Police. Telemarketers—who hear a message stating that the called party is registered with the TPS and still insist on being put through—are recorded.

We are currently unclear as to whether the recordings would be admissible in a UK court (even if the called party is registered with the TPS). We would like to see the privacy legislation changed to permit such recordings to be provided to authorised bodies for the purpose of determining whether or not an illegal call has been made and to enable appropriate action to be taken.

Along the same lines, stating at the beginning of the call that the called party does not want to be disturbed, should oblige the calling party to withdraw regardless of whether the called party has ticked the internet box to be contacted, is being called for is a survey, by a sales team, or by some threatening third party. Registering with the TPS should not be necessary to protect one's already granted, lawful privacy.

As a final comment, we would like to suggest that UK companies using overseas telemarketing companies to avoid the UK ruling should be dealt with in the UK. Again, because of the speed with which we must write, we are unclear whether this is in fact happening.

August 2013

Written evidence submitted by the Internet Telephony Services Providers' Association [NTC 045]

ABOUT ITSPA

The Internet Telephony Services Providers' Association (ITSPA) is the UK VoIP industry's trade body, representing over 70 UK businesses involved with the supply of Voice over IP (VoIP) and Unified Communication services to industry and residential customers within the UK. ITSPA pays close attention to the development of VoIP regulatory frameworks on a worldwide basis in order to ensure that the UK internet telephony industry is as competitive as it can be within international markets.

Please note that certain aspects of the ITSPA response may not necessarily be supported by all ITSPA members. Individual members may respond separately to this consultation where a position differs.

A full list of ITSPA members can be found at <http://www.itspa.org.uk/>

SUMMARY OF ITSPA'S POSITION

ITSPA welcomes the opportunity to respond to the Culture, Media and Sport (CMS) Select Committee call for evidence in its inquiry around nuisance calls. Nuisance calls are a recognised problem within our industry and one that our members are extremely committed to help reducing in scale. They come in various guises from certain types of unwanted and persistent marketing calls or messages to abandoned, silent and most seriously, malicious calls. Indeed ITSPA members feel that malicious calls are the most serious type of nuisance call, and as such, need to be prioritised.

ITSPA members believe it is important to avoid an unnecessary and unwarranted attack specifically focussed on the VoIP industry when discussing this issue. There has been concern in recent months, when this issue has been raised within the media and amongst parliamentarians that VoIP is the cause of this problem. This is simply not the case and many of these issues affect all forms of telephony and have been taking place long before VoIP became a more mainstream technology. Whilst the industry must play its part in resolving this problem, the focus should be on the perpetrators of these unsolicited calls (which predominantly emanate from overseas) not on a specific technology, which provides huge benefits to both consumers and businesses across the UK.

ITSPA believes that there are rules in place to resolve current problems but more can be done in terms of enforcement measures. We also believe that more is needed to improve public awareness as well as strengthen communication between, the telecoms sector, its clients, the regulators and law enforcement bodies. More information is outlined in our response below.

KEY POINTS

1. *Malicious calls must not be forgotten*

ITSPA believes this should remain a focus of any review into this whole area. From the experience of ITSPA members, the problem is certainly on the rise and is being experienced by ITSPA members and there lacks cohesive processes between branches of law enforcement and the industry. One ITSPA members' call centre at one point experienced an extremely high level of malicious calls (peaking at 25% of its total calls for six weeks). Malicious calls can be extremely harmful and distressing for vulnerable sections of society and this is certainly an area where stronger enforcement around the current laws is essential to act as a deterrent.

2. *The International Element*

A significant proportion of all nuisance calls originate from overseas (predominantly beyond the EU). Whilst UK Communication Providers (CP) are constantly vigilant in reacting to the problems their customers receive, greater international cooperation is needed to help eradicate this problem. This requires the national regulators from respective EU member states and their counterparts outside of the EU to enter constructive dialogue.

3. *Focus on the perpetrators not the technology*

Nuisance Calls are not solely caused by the use of VoIP technology. Most types of nuisance calls also take place on the Public Switched Telephone Network (PSTN) as well as on the mobile networks. ITSPA does accept that the efficient and innovative nature of latest generation technology such as VoIP can enable nuisance call activity to take place on a greater scale. However, the focus should not be on the technology, but rather on those companies who are undertaking the activity in the first place. ITSPA members are generally proactive in reacting to these issues, but it is not for the communications services industry to police the actions of its customers when they accept calls generated by them in good faith—the average network cannot tell the difference between a call centre generating legitimate calls, perhaps of societal value (centralised NHS appointment reminders, for example) versus illegitimate marketing activity.

4. *The Enforcement Regime*

ITSPA believes that there are relevant rules in place already regarding the necessary enforcement action around nuisance calls, however currently they are not well enforced. Greater cooperation and partnership with regulators is necessary. We believe that the prosecution thresholds are too high and this is in part the reason why there have been very limited prosecutions in this area. ITSPA members also believe that the Information Commissioner's Office (ICO) back stop power is not aggressive enough.

ITSPA is generally confused as to why certain aspects of nuisance call policy and enforcement are split between Ofcom (silent and abandoned calls) and the Information Commissioner's Office. This is illogical and we believe it leads to confusion. We would suggest that Ofcom, which already has a good working relationship with most of the industry and has a consumer contact centre, should own the general remit, together with at least the backstop powers of the ICO.

5. *CLI issues*

Technological advancements mean we cannot rely on the Customer Line Identification (CLI) of a phone number categorically being a reliable indicator as to where the phone call is coming from. This is exactly the same as with other Internet technologies (such as Phishing emails). The current NICC guidelines do apply to IP and SIP technologies as equally as legacy technologies and there are regulations (General Condition of Entitlement 2 and Ofcom's CLI Presentation Guidelines) in force already. However, there is the potential for CLIs to be corrupted when data is switched between networks, notably when calls (which are often genuine) are originated overseas. The difficulty at a network level is about being able to spot Spam over Internet Telephony (SPIT) from normal data. ITSPA does however feel that improved rules around CLI handling would help and are happy to participate in any discussions. We believe that Ofcom have the powers to enforce originators of marketing calls to present their CLI, which would give consumers the option to take action if necessary. This would resolve UK (and most EU) originating nuisance calls but would not necessarily be enforceable elsewhere at present.

6. *Industry Efforts*

It is important that all industry providers undertake due diligence where possible when signing up new customers to ensure that they will be using the telephony service in a legitimate manner. This is particularly difficult for pre-pay customers and those who operate on a no contract basis.

CLI presentation where possible should be encouraged, however this has implications for a large number of legitimate business and organisations who withhold their CLIs when contacting people (The Police, Hospitals, Banks). There are legitimate reasons for withholding CLIs so a balance needs to be struck. Various organisations/industries would have to discuss common approaches to ensure a uniform outcome, which in turn would give consumers more confidence when receiving phone calls they are not expecting.

ITSPA itself is currently drafting a Best Common Practice document for its members around CLI presentation to help improve understanding and best practice within its membership group. VoIP Security in general is an important focus in the work of the organisation and the aim is to assist our membership in being fully prepared for the various scams that can arise through running a telecoms business. ITSPA is an associate member of the Telecommunications UK Fraud Forum (TUFF) and engages with industry representatives to help circulate best practice and provide warnings of malicious activity. We are also undertaking an engagement campaign with the relevant police authorities to improve the channels of communication, particularly on malicious calls.

The tracing of calls is a difficult process and requires cooperation between the originator and terminating communications provider. This is particularly difficult if the calls are cross-border and there are question marks as to whether certain data can be collated under RIPA (Regulation of Investigatory Powers Act) without the direct co-operation of those two parties, because with the greatest respect to law enforcement, a detailed technical dialogue between the communications providers is required to identify the source of calls without a CLI. However ITSPA believes the industry can cooperate more effectively to help resolve this problem.

7. Consumer Awareness

More can be done to improve understanding around nuisance calls amongst the general public. The consumer group Which? recently provided guidance and both the regulators and the industry can provide more information to help consumers deal with the various types of nuisance and malicious calls.

8. The future

ITSPA will look forward to working with Ofcom and the ICO surrounding its new initiatives in this area over the coming months. We also hope to have established stronger links with the relevant law enforcement bodies on malicious calls. ITSPA members would be happy to discuss this issue further with Members of the Committee if required.

August 2013

Written evidence submitted by John Thompson [NTC 046]

NUISANCE CALLS—CHARGES FOR AN “ANONYMOUS CALL REJECTION SERVICE”

In my experience most nuisance calls are almost always anonymous. I know this because in an effort to report them I have tried to get their numbers.

Installing an “anonymous call rejection service” would almost certainly cut down a large proportion of nuisance calls, and the UK based ones that did get through would be identifiable for reporting. Clearly this is not an option open to everyone; some people have genuine callers who for some reason want to be anonymous.

I cannot understand why switching to “anonymous call rejection service” should involve any significant costs yet BT charge £54 pa. It would be useful to ask BT what exactly is the cost rejecting anonymous calls— if it is not close to zero then there must be something wrong with their systems—and how they can justify the charge.

September 2013

Written evidence submitted by Trevor Neal [NTC 047]

Like many UK citizens, I have become increasingly frustrated at my inability to block these nuisance calls and texts. My comment is this, with the sophisticated technology that is now available, surely it is possible to introduce a system whereby individual subscribers can effectively block calls that they don't wish to receive. Please see my suggestions below.

Firstly, whilst I am aware that the UK government may prefer a voluntary code of conduct rather than legislation to introduce a statutory requirement, I believe that voluntary codes often do not work and that it may be necessary to place a statutory requirement on UK organisations to comply with whatever system is introduced.

I believe that telephone subscribers should be enabled to block all unwanted calls irrespective of the purpose of the call and also the organisation that is making it. The only exception to this should be calls made by the emergency services/police.

There should be no exemption for organisations who are conducting research/surveys irrespective of the purpose or subject being researched.

There should be no exemption for organisations who are using “random dialling technology”, since technology should now enable them to screen out those who have registered that they do not wish to receive unsolicited telephone calls.

There should be no exemption for local councillors or local members of Parliament who wish to make unsolicited telephone calls.

My suggestion is as follows, the United Kingdom should introduce a system whereby organisations who wish to make unsolicited telephone calls, are required and enabled to tag or label their calls by dialling a prefix code before dialling the number(s) they wish to call. This would work in the same way as dialling 141 before dialling the telephone number you wish to call withholds your number from the call recipient. But in this case the code would label the call so that the intended recipient would be able to block it. The telephone providers should also be required to provide the facility for individual subscribers to selectively bar or block different categories of cold calls which have been labelled or tagged in the manner described above.

So for example let's say that the system of codes would be categorised in the following way:

- marketing calls should be prefixed with code 061;
- calls concerning research/surveys should be prefixed with code 062;
- calls from charitable organisations seeking financial contributions should be prefixed with the code 063; and
- calls from local councillors or local members of Parliament should be prefixed with the code 064.

Then, individual subscribers would be given the ability to selectively block some or all of the different categories listed above by using call barring which involves keying in a code provided by the telephone service provider for the purpose of blocking the calls in question.

It goes without saying that there will need to be some form of compulsion, to ensure that the telephone service providers and the organisations who wish to make unsolicited cold calls all participate in the system. There should also be a system of monitoring compliance, together with punitive financial penalties for those organisations who do not comply.

To my mind the advantages of the system that I have outlined above are that it shouldn't be prohibitively expensive for the system to be introduced. Also, the system as described above would give individual telephone subscribers the power to choose which calls they wish to receive or bar. I feel certain that with modern technology it is possible to introduce a system such as I describe above.

September 2013
