



2. Nuisance Calls that require a regulatory response

We suggest the following (non-exclusive) list covering only voice telephone calls.

■ ALL calls resulting only in silence.

Every "No Agent Available" call resulting from use of a predictive dialler should be required to be handled by an Informative Message.

Existing Answering Machine Detection equipment is not sufficiently reliable to warrant terminating a call on a positive detection. "Dead air" on the line whilst a sample of the voice answering the call is taken may lead the person called to assume that the call has been terminated in silence. Answering Service Detection should be explored by the call centre industry (and supported by Ofcom) if this would meet a valid need.

The persistent misuse powers held by Ofcom to intervene and apply enforceable regulations only in specific cases must be recognised as only being a "long stop". Wherever possible, general regulations should be applied and enforced to cover use of this technology applied on all users and their agents.

■ Calls not introduced by a clear statement of the caller's identity

Notwithstanding codes of practice, supported by regulation wherever possible, the Ofcom Statement of Policy on use of the Persistent Misuse powers should include this as an example of activity that may lead to the issuing of a Notification. (Fraud is a different issue.)

■ ALL voice calls using recorded announcements made without explicit consent having been given for receipt of such calls

If made for a direct marketing purpose, such calls are already prohibited under regulation #19 of the PECR. Ofcom regards such calls as potentially being regarded as an example of persistent misuse. We propose that sectoral regulators add the relevant provision to existing regulations, with the powers of the ICO and Ofcom as a back up.

■ ALL telemarketing calls from certain industry sectors

We believe that this means of marketing has been shown to be improper for certain business sectors, either by the nature of the business or following experience of how it has been conducted. This would need to cover not just the practice itself, but the receipt of leads generated by this means, possibly by overseas agencies.

Regulators who take this step may wish to add provisions to permit telephone responses to enquiries on the basis of a clear invitation for such a response. All must however ensure that provision of a valid contact telephone number is not a mandatory requirement in any situation.

(We would be happy to participate in discussions about which sectors / regulators should be particular urged to look at this, although many examples will come swiftly to mind.)

■ All calls requesting provision of "security" information

We believe that codes of practice, supported as necessary by regulation, should prohibit callers from requesting information used by that organisation for the purposes of securely identifying a person. To prevent fraud, such information should never be given to a caller, unless an agreed method of secure reciprocal identification may be devised and applied.



