fair telecoms campaign **news release**

Comments on the DCMS Nuisance Calls Plan

The following initial comments are in direct response to the comments on Nuisance Calls in the DCMS policy paper **"Connectivity, Content and Consumers"**, published today.

"Ofcom is taking action"

This statement is a little awry as **Ofcom** has not used its **Persistent Misuse Powers** in respect of any activity conducted since March 2011!

These powers enable (and require!) **Ofcom**'s to act whenever "***there are reasonable grounds for believing that … the effect or likely effect … is to cause another person unnecessarily to suffer annoyance, inconvenience or anxiety***".

This applies to any use of "***an electronic communications network or electronic communications services***". **Ofcom** must therefore use its powers to cover any case that cannot be handled effectively by another regulator. The example of "**Silent Calls**" arises only because these were specifically excluded from the provisions of PECR #19 when the EU directive was applied in the UK.

Joined up action

The specific duties of many regulators are very clear. There is much that could be done by **a long list of sectoral regulators** to address the activities of those they regulate. We argue that each regulator must keep its focus on those for whom it is responsible and discharge its responsibilities, within the limits of the resources provided for the purpose. The **ICO** and **Ofcom** exist to ensure that no cases fall through the net. Their respective levels of resourcing enable nothing more.

We propose that the consumer / citizen interest in nuisance calls be represented separately by a single body handling all reports and pressing the most appropriate regulator to take action, in performance of its clear and explicit statutory duty.

Further ideas

- It is disappointing that the simple amendment to the **PECR** to lower the threshold for **ICO** action has not been already issued (as previously misreported). As stated above, Ofcom already enjoys a much lower threshold ("***likely to cause …***") and could always have acted where the ICO could not.
- Further investigation of the issue of **CLI** may produce something interesting, however we have always seen this as a "red herring".
- Given that most claims of **consent**, as a justification for nuisance calls, are found to be spurious, it is unlikely that any tinkering with this will produce any meaningful benefit.
- It is unthinkable that any proposal to introduce a whole new area of regulation - **licensing of call centres** - could be introduced by a government, and approved by a parliament, that has long been firmly set on reducing regulation and the number of QANGOs. Unless this is done on a EU-wide or world-wide basis, then it risks driving the entire outbound industry offshore.

Inquiries

It will be interesting to hear these ideas outlined properly as we all present our evidence to the forthcoming **CMS Committee** inquiry. The **Nuisance Calls APPG** will also provide a valuable forum for these ideas, and others, to be fully explored.

David Hickson 

Tuesday, 30 July 2013