



Government, and others, ‘dialling the wrong number’ in trying to deal with the problem of Nuisance Calls

The government has come forward with another (rather foolish) idea as part of its ineffective approach to the problem of nuisance calls. Others are also missing the point (see overleaf).

A consultation will conclude next week into a proposal that could make it easier to catch those who breach the terms of “Privacy and Electronic Communication Regulations”.

See - [Requiring direct marketing callers to provide Calling Line Identification](#).

The idea is that it will be easier to catch those who make unsolicited direct marketing calls without consent if, in addition to being prohibited from making the calls, they are also required to provide a return contact telephone number (known as CLI) when they do so.

I have always said that it would be difficult to oppose a proposal to impose a legal requirement for burglars to always leave behind a business card including a recent photo and giving their name and permanent address, so that they could be more easily caught by the Police. I suspect however that most people would find such a proposal to be laughable.

On the wider issue covered by the proposal - those who pay for the provision of CLI from their network operator may have the benefit of knowing who is calling when the number given is recognised by sight or by equipment. Being given a number that is not recognised is not significantly different from being given no number at all. We must also note that many nuisance callers will deliberately offer false numbers in order to contact those who block calls when no number is given. **CLI only tells you who is calling if you already know them.**

What the government should be doing

The present legislation is based on the absurd concept that one may “consent” to “unsolicited” direct marketing calls. That is how an EU directive was interpreted back in 1999, and again in 2003.

We believe that, given the level of nuisance calling currently being suffered, the only legitimate marketing telephone call is one that has been explicitly requested (solicited).

Whilst the government may find itself bound by its interpretation of a EU Directive in respect of the general law, this restriction does not apply to statutory and voluntary regulators of specific sectors - who set rules and standards for the marketing of products and services. These bodies have it within their power to prohibit use of the telephone for unsolicited marketing altogether.

We have urged the bodies responsible for permitting nuisance calls regarding the following topics, which generate many complaints, to reconsider the regulations they set and effectively enforce:

* Accident Claims / PPI	Claims Management Regulator (MoJ)
* Financial Services	Financial Conduct Authority
* Insulation / Boilers / Solar Panels	Green Deal Oversight and Registration Body (DECC)
* Charities	Fundraising Standards Board
* Energy	Ofgem
* Telecoms including TV	Ofcom

See our Open Message:



[Regulatory prohibition of Nuisance Calls](#)

Where the government controls these bodies it must act, or otherwise it must press, for a total prohibition on means of marketing that cause unacceptable public nuisance.



What Ofcom should be doing

An Ofcom consultation - [Review of how we use our persistent misuse powers: Focus on silent and abandoned calls](#) - also closes next week.

Whilst Ofcom is now moving much closer to the position which we have long advocated it still stops short of clearly declaring a strong position on two key points.

- Anyone who makes a telephone call and fails to properly identify themselves to the person who answers (or says nothing at all) is clearly misusing the telephone network. Those who do so as a matter of habit or procedure are clearly engaged in persistent misuse.
- Ofcom should use its powers (in §128 of the Communications Act) to immediately issue a formal Notification in EVERY significant case of persistent misuse that comes to its attention.

Where the response to the Notification does not provide convincing evidence that the practice has ceased, Ofcom should issue a §129 Enforcement Notification, clearly specifying the action required to correct the error. On each occasion where the requirements of the Enforcement Notification are found to have been breached, Ofcom may (and should where appropriate) use its §130 powers to impose a financial penalty, of up to £2Million.

This is a much more proper approach to use of the powers than the present method, whereby §128 Notifications are only issued long after Ofcom became aware of the misuse, because it has waited to collect sufficient evidence for the immediate imposition of a Penalty. The power to require offenders to correct their behaviour (under §129) is never used.

What BT should be doing

Last week we reacted to the announcement from BT of the proposal for its customers to benefit from an exclusive "blacklist" of nuisance callers. This also gave us a chance to comment more widely on the situation regarding stopping nuisance calls. These two radio interviews give a useful précis of our position:



[Radio 5Live - Breakfast Show with Nicky Campbell - Thursday 11 February 08:15](#)

[BBC Radio Hereford and Worcester - Elliott Webb - Thursday 11 February 09:15](#)

In the second of these we highlight the enormous benefit that would be available to all telephone users if their networks included the opportunity to use the call filtering capability reflected in the trueCall device, adopting into BT handsets as "Call Guardian".

This technology allows calls from recognised numbers to proceed unimpeded, but requires all other callers to identify themselves with a brief message. If they speak, the phone rings and one has the chance to decide whether or not to accept the call. If so, one may immediately have the caller's number added to the list of recognised numbers. If not, the caller is sent away without any opportunity to delay one further - there is also the chance to add the number used to a blacklist.

Many controlled tests of this technology have demonstrated a most remarkable effectiveness in eliminating Nuisance Calls, without impeding wanted calls. This must now be made available to all.

This technology is already working on a telephone network in test. We await its early deployment across all landline and mobile networks. BT is well placed to take the lead with this.

