



## Nuisance Telephone Calls the situation as it is now and the way forward

### Most “Nuisance Telephone Calls” are illegal

- The **Privacy and Electronic Communications Regulations (EU Directive) 2003**, enforced by the **Office of the Information Commissioner**, addresses calls for a direct marketing purpose. These prohibit automated voice messages (**#19**), emails and SMS text messages (**#20**), except where explicit consent to such communications has been given. **#21** prohibits attended voice calls to those numbers recorded on the **TPS or CTPS** registers.
- **Sections 128 - 130 of the Communications Act 2003 (“Persistent Misuse”)** provide **Ofcom** with discretionary powers to Notify (**§128**), Prohibit (**§129**) and Penalise (**§130**) anyone habitually using the telephone network in a manner that is deemed to be **“likely to cause unnecessary annoyance, inconvenience or anxiety”**.

We believe that this provides the regulators with adequate powers, as most cases of what we think of as being “nuisance calls” are covered, **especially on noting the breadth of the latter.**

### These powers have only been used rarely and selectively

Over the ten years that these specific powers have been held, they have only rarely been used against the many companies known to be breaching the requirements. Apart from an apparent general reluctance to act, the regulators tie their own hands by the policies which they set:

- ☒ **Ofcom** only uses the Persistent Misuse powers against those it finds to have failed to follow its policy that no more than 3% of calls may be “abandoned”. All other reported misuse, including ***making millions of Silent Calls within the 3% limit, is tolerated.***
- ☒ **The ICO** requires that the direct marketing purpose of the call be explicitly declared, for it to be so deemed. A caller collecting information about an individual for direct marketing purposes may say that they are providing public information or conducting a survey, as if this was simply conducting general research from the population in general, with impunity.

### Other bodies hold specific powers which could be used

Powers which may only apply to certain sectors could actually be used more readily and effectively against those making nuisance telephone calls, and also the scamming activity which may flow from them, than the general powers referred to above. These include:

- ☑ Sectoral regulators able to impose conditions on the marketing techniques used. **Ministry of Justice** for **Claims Companies and their agents**, **Ofcom** for **telecoms companies**, etc.
- ☑ **Office of Fair Trading** and **Trading Standards** departments.

**We propose that a “Nuisance Calls Agency” be established to utilise re-deployed existing public engagement and investigation resources. This would ensure:**

- **Simple and direct engagement with citizens reporting “nuisance calls”**
- **Thorough and proper identification of culprits and publication of evidence**
- **Cases for action always being complete and referred to the appropriate body**
- **Focused pressure on regulators to use the powers granted by parliament**

**[Click here to read more of our proposal](#)**

