

**Nuisance Calls  
Parliamentary debate - Thursday 16 January**

There has been a lot of chatter about revisions to the present **failed regulatory regime**, which is likely to be repeated in this debate. The **fair telecoms campaign** urges members to recognise that, **these well-meaning efforts cannot alter its essential weaknesses**. This regime does not, and cannot ever, have a significant effect on the behaviour of those who cause nuisance by telephone.

## The present regime

This has been seen to fail and it will continue to do so, because necessary relationships between the regulator and the regulated do not exist. There are also essential underlying difficulties.

- **The ICO** can only have limited powers, because of the breadth of its role, essentially related to the privacy of data. Its enforcement of the **PECR** is based on an assumption of consent to attended unsolicited marketing calls. This is subject to being withdrawn, by TPS registration, but unattended unsolicited marketing calls, SMS messages and e-mails, which require explicit consent, are commonplace. **No tweaking of the rules could be expected to address this.**
- **Ofcom** does not even attempt to apply a general prohibition of calls that result in silence. It applies its, wholly discretionary, **"Persistent Misuse"** powers only in relation to an excessive proportion of "Abandoned Calls". **Ineffective "Answering Machine Detection" technology - the major cause of Silent Calls - is not only tolerated by Ofcom, but its use is encouraged!**
- The ratio of cases reported to actions taken clearly shows that these bodies are only willing or able to address a tiny proportion of those known to be causing nuisance. Dealing with this by imposing excessive exemplary penalties on selected offenders has been seen to be totally ineffective. **Facilitating more reports will only lead to more complainants being dissatisfied.**

**Tweaking detail of the regulations cannot be expected to make a serious difference.**

## Our proposal

We propose that all reports of "nuisance calls" are directed to a single point of contact - **an agency which represents the victims**, independent of the many offender-focussed regulators.

**All relevant regulators must be engaged** - notably those responsible for regulating and licensing those industries where telephone marketing is inappropriate or seen to cause a problem.

In many cases (e.g. **Claims Management, Green Deal** and many aspects of **Financial Services**) **a total ban on use of leads generated by telephone marketing** must be applied to those trading in the relevant sectors. Where mass telephone contact (using automated diallers) is permitted, standards must be set to ensure that **no call results in silence for the recipient**, and that calls are conducted **politely and honestly**. **Ofcom** and **the ICO** cannot undertake this type of regulation.

Broad brush regulation across sectors is seen not to be effective. It contradicts the essential role of the regulator in supporting good standards by a known group of parties. Use of regulation to deal with an amorphous mass of light-footed, lead-gathering operators, many of whom work offshore, was always bound to fail.

**We urge rejection of tweaks - recognising that radical steps are now required.** The regulatory powers that exist must be retained only for proper use in cases that slip through a properly constructed net of ineffective regulation.





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## Notes and action

Please see recent publications on this topic, giving more detail on our position.

### Our submissions to the recent inquiries

- Our [initial submission](#) to the Culture, Media and Sport Committee inquiry
- A [second submission](#) to the CMCS inquiry
- Oral evidence presented to the CMCS inquiry - [Transcript](#), [Parliament.tv](#)
- A further briefing submitted to the CMSC inquiry and for the attention of the APPG inquiry: [“Nuisance Calls - Action”](#)
- Our response: [“Reaction to Culture Media and Sport Committee report - NUISANCE CALLS”](#)

### General comments on the issue

- Our blogging covering potentially damaging measures taken in [“Avoiding Nuisance Calls”](#), including links to various relevant items.

### Material in support of our proposals

- The [Regulators Code](#) refers to a relationship between regulators and the regulated which cannot be found to exist between those making Nuisance Calls and either **Ofcom** or **the ICO**.
- Measures being adopted to apply our proposal that telemarketing be prohibited for Claims Management - [“Rogue PPI claim companies targeted by fines and toughened regulations”](#).
- [Endorsement from Citizens Advice](#) for our proposal that telemarketing be prohibited for Financial Services (notwithstanding it also offering support for ineffective proposals).
- A news story highlighting the need to adopt our proposal that telemarketing be prohibited for Green Deal - [“Hundreds woken by cold call promoting Government solar panel deal”](#).

### Our support for campaigners

We have been disappointed to find that many who are concerned about the issue of nuisance calls have put their weight behind proposed measures which are ill-considered and offer no serious prospect of resolving the issue. We sympathise with their motives, but cannot support them.

Those engaged in the present failed regime are bound to suggest any measure, the absence of which may be seen as having explained their past failure. Those without a deep understanding of the issue are bound to say “something must be done” and seize on any tough-sounding proposal.

There are some cases where issues of privacy are involved, but mostly this is not the issue. In general, it is simply about unacceptable behaviour which causes nuisance. Our proposal for an independent agency to front the handling of reports would enable more serious cases - breaches of data protection and fair trading regulations, and also the criminal law - to be separated out.

Having been involved with these issues for over ten years and having seen many initiatives lauded, but then seen to be ineffective, we feel that now is the time to stop mucking about.

We recognise the temptation for some to “grandstand” on an issue of widespread public concern, and note examples of those who have succumbed. **We seek only effective action.**

