



## The continuing failure to address the problem of Nuisance Calls

In the last week, we have submitted responses to two consultations on Nuisance Calls - see below for summaries and links to the full responses.

Tomorrow, the government-commissioned **Which? Task Force** publishes its report. This endorses the mistaken approach of using the powers of the Office of Information Commissioner (**ICO**) as the primary means of taking action against Nuisance Callers.

We argue most strongly that, as the current approach has been clearly seen to fail, future efforts should be led by the regulators directly responsible for those who cause nuisance by telephone. They have the focus and the powers to enforce appropriate regulations to cover all telephone contact, including the opportunity to put those who breach them out of business.

We believe that fiddling around with the fine detail of an already failed regulatory approach is most unlikely to have any impact on a problem that has grown to a wholly unacceptable scale - because of this failure!

### **NOW IS THE TIME FOR A MORE RADICAL APPROACH TO A PROBLEM THAT HAS BEEN ALLOWED TO GROW - BECAUSE THE CURRENT APPROACH IS INEFFECTIVE**

#### **The Which? Task Force**

The **Department for Culture Media and Sport** has assigned this group the objective of recommending how the principle of "consent" to "unsolicited" contact by telephone, fax, text message and email, as contained in the Privacy and Electronic Communications Regulations (**PECR**), may be re-defined.

As with many developments over the issue of Nuisance Calls through the last ten years, we expect this to be heavy on hyperbole (see [the initial announcement](#)), but inevitably light on action.

#### **The DCMS 'Nuisance Calls' Consultation**

Our response to [this consultation](#) has been submitted and [published](#).

We fully agree with the actual proposal advanced - that the **ICO** be enabled to impose penalties in less serious cases of breaches of the **PECR**. That is indeed the role which we see the **PECR** and the **ICO** as having in respect of Nuisance Calls - sweeping up the less serious cases that cannot be properly addressed by a robust regime of regulation and enforcement.

Our response goes on to address the DCMS Action Plan on Nuisance Calls - of which this and the Which? recommendations are the key parts. We explain, in some detail, the important elements that we see as missing from the **DCMS** Plan.

#### **The Ofcom consultation on use of its 'Persistent Misuse' powers**

Our response to [this consultation](#) has been submitted and [published](#).

We explain how **Ofcom** has been **persistently misusing its persistent misuse powers**.

**Ofcom** continues to adopt a regulatory approach to behaviour that can only be totally prohibited - e.g. permitting a certain proportion of calls to be terminated in silence after they have been answered. It also fails to use the powers to sweep up cases that cause annoyance inconvenience or anxiety, but cannot be addressed by the **ICO** under the terms of the **PECR** - the very purpose for which they were intended.

