



Summary points in response to the parliamentary debate on “nuisance phone calls” - 28 February 2013

The following points have been made to the members involved in [the debate](#).

- **CLI**, as presented to the person called, will never provide them with an assured means of identifying the person or body responsible for the call. A true record of the **actual calling line** is however also held for the purpose of tracing.

Given that we are concerned with cases where **the law is being broken**, we must think carefully before proposing an additional legal requirement for the purpose of detecting those who break the law. Would we agree with a proposal that burglars should be required by law to leave a business card with a current address, photograph and daytime telephone number at the site of every burglary? Proponents may argue that this measure would help the Police in catching criminals!

- We see it as essential that the existing wide range of **particular regulatory powers** which may be applied in respect of nuisance calls be retained by **specialist regulatory bodies**. This includes the PECR which covers direct marketing, many stronger industry specific regulations, broader trading standards regulations, as well as powers in respect of criminal activity.

The wholly discretionary “persistent misuse” powers held by Ofcom should remain available for use as a **“backstop”**. These powers are drawn far more widely than the most limited way in which they are being used, and are generally understood.

- Our proposed “Nuisance Calls Agency” is to address the need for citizens to have a single point of contact, to conduct preliminary investigations and identify the most suitable approach to any case. This would enable the **consolidation of existing resources**, but would **not require the re-assignment of powers to act**, as would be required if a single body were to set regulatory requirements, receive reports of alleged breaches and take enforcement action.

We also see many merits in having a separate agency focussed on the citizen, and sufficiently competent to put **appropriate pressure on the work of the regulators**. If it were to take over their powers, we would be repeating some of the problems which we are suffering at present.

I trust nobody proposes that existing regulatory powers should be removed or duplicated.

- I cannot offer a legal opinion, however I suspect that the **alleged problems with what constitutes “consent”** to particular direct marketing approaches may not be as great as is pretended. Regulators are rightly concerned about pursuing cases that may be open to challenge, but this often causes **excessive caution** in the face of spurious claims of compliance.

Exaggerated claims of what amounts to “consent” should be tested more thoroughly, and perhaps clarified, before unnecessary changes to legislation are proposed.

- There will always be some cases which will be **beyond the bounds of UK (and EU) law and regulatory powers** - the “computer” scam is probably one such case. **International co-operation** is however an issue which can be pursued, e.g. it is understood that the “Florida holidays” case was dealt with effectively on this basis. Co-operation with **other “victim” territories** to apply combined pressure to the **originating territory** also takes place.
- The fact that many members were able to refer to **similar, or identical, cases** shows that much of the breaching of regulations or persistent misuse is being carried out **on a very large scale** by a relatively **small number of offenders**. We propose that the agency adopt an approach of making **intelligent use** of well prepared reports from a small number of “victims”. Correlation with other less detailed reports should be sufficient to prompt investigations to determine the true nature and scale of the malpractice.

The current standard approach, simply aggregating reports, disregards valuable evidence. It may be fair to treat all complainants equally badly, but that is neither worthy nor proper.

