



Ofcom fails to deal with Silent Calls

We challenge the statement - [Ofcom takes action against abandoned and silent calls](#) (see link). Concluding a project covering events of over two years ago, does not warrant the present tense. Furthermore, **Ofcom's** approach to this issue falls well short of its first [principal statutory duty](#).

Separate from **Ofcom's** powers to serve **consumers** by [imposing](#) and [enforcing](#) regulations on [providers](#) of telecommunications services, are its powers to serve **citizens** when made aware that a user of these services habitually does so in a way likely *"to cause another person unnecessarily to suffer annoyance, inconvenience or anxiety"*. These are the ["Persistent Misuse powers"](#).

In our simple view, any systemic process which results in hanging up in silence after a call has been answered must be regarded as Persistent Misuse and any significant such case which comes to **Ofcom's** attention must be subjected to use of the relevant powers.

Ofcom, and those who support the way in which it uses its powers, disagree with this view.

Ofcom behaves as if it held powers to regulate the use of "Automated Calling Systems" and it pretends to have imposed regulations to limit the number of Silent Calls that are made. **It has no such powers.** **Ofcom** does not respond to reports of Silent Calls, but from time to time undertakes ["own-initiative enforcement activity"](#) covering breaches of its "rules" - see [our briefing](#) for details.

The penalty imposed on **TalkTalk** marks the end of the latest phase of enforcement activity, which covered the period from [1 February to 21 March 2011](#). Two other cases were handled during this phase - **Homeserve** and **nPower**. **The powers have not been applied in respect of any other Silent Call made since 10 May 2007** - the end of the preceding phase.

Doubtless, millions of Silent Calls were made by hundreds of companies during the last 6 years. Surely at least one of the 76,334 complaints about Silent Calls received by **Ofcom** between April 2007 and January 2013 provided significant evidence of Silent Calls being made, by another company or at another time, so as to warrant the issuing of a Notification of Persistent Misuse. **Ofcom** has clearly chosen not to use the powers it holds to perform its first principal duty.

The persistent misuse powers were neither intended nor designed for the purpose of general regulation. They were most certainly not intended to allow **Ofcom** to formally sanction the practice of hanging up in silence, albeit subject to modest and rarely enforced pseudo-regulations, which **Ofcom** explicitly intends only to limit the number of Silent Calls being made.

It may be that a £750,000 penalty on **Talk Talk**, in respect of a one-off event over two years ago, is justified. Our concern is that **Ofcom's** limited resources have done nothing to use its statutory powers against the continuing, and apparently growing, nuisance of Silent Calls whilst occupied in this obviously lengthy and difficult task of historical retribution.

We are disappointed to find ourselves in disagreement with those, including [Which?](#), who celebrate this ("muscular") approach and others, including [Citizen's Advice](#), who want **Ofcom** to divert yet more effort into use of the advanced aspects of its powers. (See their news releases.)

The persistent misuse powers must be used to stop ALL Silent Calls TODAY

See also our briefing - [How Ofcom tolerates Silent Calls, and fails to use its statutory powers](#).

This is but one aspect of the general failure to address the wider issue of Nuisance Calls. We outline our proposals on the wider front in [this document](#).

