



## fair telecoms campaign



# The answer to “illegal” Nuisance Calls

The overwhelming majority of what we think of as “**Nuisance Telephone Calls**” are “illegal”.

In many cases they are covered by specific regulations. The **Privacy and Electronic Communications Regulations 2003**, enforced by the **Information Commissioners Office**, cover direct marketing. Particular enforceable requirements apply to certain industry sectors, e.g. **Claims Management Companies**. There are many other such examples.

### **There is however a legal “backstop”.**

**Ofcom** holds statutory powers (under **Section 128 of the Communications Act**) which enable it to issue a “**Notification of Persistent Misuse**” against those for whom “*there are reasonable grounds for believing that*” they are engaged in telephone calling activity “**the effect or likely effect of which is to cause another person unnecessarily to suffer annoyance, inconvenience or anxiety**”.

The initial public Notification may be followed by an “**Enforcement Notification**”, prohibiting specific activities, and then by a financial penalty in the event of a breach. Where **Ofcom** was too late in issuing the initial Notification to prevent serious damage being caused, it may issue a financial penalty immediately after the initial Notification.

## ***An agency to ensure that the powers are used***

The **fair telecoms campaign** proposes that the existing resources deployed to receive and process reports of “Nuisance Calls” be consolidated and re-assigned to a specialist “**Nuisance Calls Agency**”. This agency would provide a single point of contact for citizens and would hold the capability to conduct investigations so as to provide clear evidence to whichever specific regulator were best placed to act in the public interest.

With a clear citizen-facing focus, this body would also be able to publish information about what is happening and ensure that the public interest is properly balanced with the other interests which regulators have to consider.

## ***Correcting failure***

The present regime is clearly not working, as the mass of evidence available to the regulators is not being used to halt the nuisance.

This is especially true in the case of **Ofcom**, which misuses its persistent misuse powers by behaving as if it had powers of general regulation over call centres and their use of automated dialling equipment. It sets and “enforces” rules covering which **Silent Calls** are acceptable. This is a gross distortion of the powers actually held, which should be used to much greater effect.

## ***Positive action***

The **fair telecoms campaign** urges all those concerned about this matter to engage in serious discussion about exactly how this agency will be established to ensure that the adequate statutory powers which are in place are used effectively.

As a longstanding campaigner with a deep knowledge of these issues, I am personally committed to all necessary effort to see that this problem is effectively addressed.

David Hickson



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