

The Trading Standards Institute

The Trading Standards Institute is the UK national professional body for the trading standards community working in both the private and public sectors.

Founded in 1881, TSI has a long and proud history of ensuring that the views of our broad church of Members are represented at the highest level of government, both nationally and internationally. TSI campaigns on behalf of the profession to obtain a better deal for both consumers and businesses.

We are taking on greater responsibilities as the result of the government's announcement in October 2010 that trading standards is one of the two central pillars of the new consumer landscape (the other being Citizens Advice).

We have taken over responsibility for business advice and education, and the role of local authority trading standards services in the promotion of public health gained in importance when, as part of its health reforms, the government repositioned public health back into English local government.

The TSI Consumer Codes Approval Scheme, established at the request of the government to take over from the OFT scheme, went live in April 2013 and was formally launched in June 2013.

TSI is a member of the Consumer Protection Partnership which was set up by the government to bring about better coordination, intelligence sharing and identification of future consumer issues within the consumer protection arena.

TSI is also a forward-looking social enterprise delivering services and solutions to public, private and third sector organisations in the UK and in wider Europe.

We run events for both the trading standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement which deliver consistent curriculum, content, knowledge outcomes and evaluation procedures, with the flexibility to meet local authority, business and operational needs.

In compiling this response, TSI has canvassed the views of its Members and Advisers. The response has been composed by TSI Lead Officer for Crime and Disorder Brian Smith. If you require clarification on any of the points raised in this response please do not hesitate to contact Brian at locrimeanddisorder@tsi.org.uk.

TSI does not regard this response to be confidential and is happy for it to be published.

Trading Standards Institute
1 Sylvan Court, Sylvan Way
Southfields Business Park
Basildon, Essex, SS15 6TH
www.tradingstandards.gov.uk

Trading Standards Institute response – November 2014

Review of how we use our persistent misuse powers

– focus on silent and abandoned calls – Ofcom call for inputs

Work undertaken by trading standards in the last two and a half years which has specifically looked at vulnerable adults indicates that, at least for this section of the population, the overall number of unwanted calls has increased.

It also illustrates that the average number of calls to these users is at least a factor of four greater than for the average user.

A significant element from the TSI perspective is that so-called nuisance calls (including silent and abandoned calls) are a conduit for criminal behaviour and so-called scam phone calls.

The high level of unwanted calls can give an impression of respectability to all calls: if the legitimate business community is making calls and the criminal element is also undertaking calls, the legitimate calls give a veneer of respectability to all calls. The recipients of the calls are unable to tell which are genuine and which are not.

The credulous will be vulnerable not only to the legitimate callers but also to the rogues.

Furthermore, vulnerable consumers are least likely to complain about annoyance, inconvenience and anxiety, or about any other psychological or economic impact.

Until there is a low level of calls there will actually be a detrimental effect on the direct marketing method of contacting consumers

There is a continuum where fraud is concerned, from those offences in areas enforced by the police to offences under CPUTR (Consumer Protection from Unfair Trading Regulations) legislation which is enforced by trading standards.

Q1: We would welcome views and evidence from stakeholders on (a) the main types of harm that consumers experience from nuisance calls in general and specifically in relation to silent and abandoned calls; and (b) how to measure the harm.

a) Nuisance calls impact disproportionately among different groups. The level of what is an inconvenience for one is a source of confusion for another and potentially a source of fear of crime for another. A sectoral study is necessary. The harm experienced can be from causing elderly individuals with mobility issues to rush to the phone precipitating a fall (at a potential cost of £40,000 per fall). It can be neuroses and fear. There are many cases of the recipient being scammed of their life savings (one trading standards service has one person per month reporting losing their life savings). The individuals can be taken advantage of by rogue, negligent or irresponsible salesmen acting with or without their company's connivance and knowledge. A thesis could be written on this matter.

b) Robust quantitative and qualitative analyses need to be undertaken by building on the call blocking work of TSI, the diarisation of OFCOM. This could be facilitated by drawing in the third sector to identify participants in research.

The methodology used by TSI in various studies offers this potential by using call blocking technology. If vulnerable and non vulnerable groups could be identified and the results analysed at a large enough scale the problem could be more clearly understood. Without such an objective base line it is difficult to understand how effective regulation, intervention or enforcement can be undertaken.

Q2: We would welcome views and evidence from stakeholders on what are the key drivers of (a) silent calls and (b) abandoned calls.

There is a level of consternation and concern raised by silent and abandoned calls, however they are generated. This appears to be particular prevalent among older adults, fearing that a burglar is checking to see if anyone is at home.

A particular concern is where a call becomes "live" and the agent does not give an indication of the business contacting the consumer when asked. This breaches

current legislation, prevents complaint against the company, and stops the consumer making even simple checks about the veracity of the caller.

Q3: We would welcome views and evidence on the use of AMD including (a) if call centres have changed their use of AMD in recent years and if so why (b) the volume of calls made by call centres with and without the use of AMD (c) false positive rates when using AMD and any data to suggest that the accuracy of AMD has improved in recent years.

TSI is unable to comment.

Q4: We would welcome views and evidence on potential changes to the policy to help reduce the harm caused by silent and abandoned calls including those identified in Figure 2 (abandoned call rate and approach to AMD), Figure 3 (time limits for calling consumers and connecting to a live agent) and Figure 4 (good management and appropriate processes).

Data in respect to the harm caused by silent and abandoned calls or other unsolicited calls needs to be more robust before generalities can be made. We would welcome research in this area.

The threshold of OFCOM action needs to be reviewed and lowered in response to any research that is undertaken.

Q5: We would welcome views and evidence on potential changes that could be made to the policy relating to the a) current five general examples of persistent misuse (misuse of automated calling systems; number-scanning; misuse of a CLI facility; misuse for dishonest gain – scams; and misuse of allocated telephone numbers) or b) other examples of persistent misuse.

All of the general examples of persistent misuse are common and impact particularly upon the vulnerable.

The misuse of a CLI facility undermines that facility and any call blocking protection.

As does the misuse of allocated telephone numbers.

The major cause of concern for the trading standards profession is the use of the telephone system for "scamming" people.

Particular areas of concern are bogus investment opportunities, get-rich-quick schemes (e.g. prize draws) and the provision of expensive or substandard consumer products (from cosmetics to holidays).

A myriad of specific examples can be obtained from local authority trading standards services upon request.

Q6: We have not identified any significant changes to this section of the policy, relating to the issuing of notifications, at this stage. However, we welcome views and evidence from stakeholders on any changes they consider may improve the understanding or clarity of this section of the policy.

TSI has no comment.

Q7: We would welcome information on the current operation of the outbound call centre market, in particular:

- *The size of the current outbound calling market e.g. the annual number of calls made as well as the value.*
- *The size of total annual costs in the outbound market (where possible split by operating costs and capital costs (or depreciation)).*
- *The average costs per call/per agent (or per agent hour).*
- *The split of call centre locations (domestic or overseas) that make calls to UK numbers*

TSI is unable to respond.

Q8: We would welcome any initial views and evidence on the potential costs and benefits of any of the potential changes to the policy. In particular, whether any of the potential changes would:

- *require investment in new technology or other capital costs;*
- *have an impact on efficiency and operating costs;*
- *have an impact on call-centre costs or call-centre prices (to their clients);*
- *affect competition in the call-centre market; and*
- *have a different impact on different types of call centre, and if so, what factors affect the level of impact*

Where detriment to society is in the billions, there is a social responsibility on business to prevent its clients becoming victims by investing to marginalise rogues.

Q9: We would welcome any views on what factors may influence a call centre's likelihood of adhering to the current or a stricter policy.

The introduction of a registration scheme for call centres would assist in separating the legitimate business from the negligent or criminal by establishing a visible independent means for consumers to check the authenticity of unwanted calls via a public register.

Having received an unsolicited call, a member of the public would be able to check with which company the telephone number that had made the call was registered and telephone the company to check that it had indeed made the call.

Registration would be a simple regulatory tool so that call centres not adhering to a code of conduct could be removed. A penalty could be associated with falsely claiming registration. Such a register of call centres may be able to be set up in a TPS-type database, listing authenticated businesses rather than consumers.

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