



Response to Ofcom's Statement on persistent misuse

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1. Introduction

For the past 10 years we have been researching the issue of nuisance calls and campaigning for measures to block them. We have written a number of reports on the subject, and have acted as a consultant to the Telephone Preference Service. We have designed trueCall technology that is protecting 125,000 UK homes, and which, when independently tested, blocks 95%+ of nuisance calls.

2. General points

We welcome Ofcom's review of the Statement, and we believe that there is a lot more than can be achieved with it.

Our detailed suggestions are in Appendix A, but in summary:-

1. We believe that the failure of a call centre agent to properly identify who they are, and who they are calling on behalf of constitutes misuse. Many call centre agents just hang up when pressed to properly identify themselves - this is illegal behaviour under PECR but it is common practice, and we are not aware of any call centre that has ever been fined for doing this.
2. We believe that every telemarketing call should arrive with a valid returnable caller-ID. We do not accept that there is any legal barrier to Ofcom doing this as they have already stipulated that Caller-ID is mandatory for call centres that use automatic calling systems.
3. We believe that a public database of validated caller-IDs with full company details attached would be extremely valuable for consumers, regulators, customer service teams at telcos, and for private sector organisations who wish to help to alleviate the nuisance call problem.

In addition :-

- We welcome Ofcom's suggestion that if a call centre does present a Caller-ID this must be returnable, and the caller must be able to identify the caller and opt out of future calls. We do however have a concern that this could have an unintended consequence - if call centres were still allowed to withhold their Caller-ID they may opt to send no Caller-ID rather than take on additional obligations placed on them if they do forward a caller-ID.
- We believe that localised Caller-ID s are a misuse of the telecoms network. The only purpose of a localised Caller-ID is to deceive the called party into thinking that the call was from a local call centre when it wasn't. Even if the purpose of the call is completely legitimate, any deception about the origin of the call should not be allowed. Inauthentic caller-IDs are a growing problem, so any form of deceptive manipulation of Caller-ID should not be tolerated.
- We believe that the practice of call centres actively rotating Caller-ID s in order to hide the identity of the caller is a misuse of the network.

3. Response to specific consultation questions

Question 1

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.

You may wish to consider the following points in your response:

- Evidence of changes in the nature and magnitude of the harm since we last reviewed the policy in 2010.
- Whether the harm differs across landlines and mobiles, consumers or the different types of calls (e.g. the time of day the call is received, whether it is a silent call or a live call).
- Types of harm other than wasted time and distress.
- Whether the distress caused by nuisance calls can be quantified and if so how.

- Evidence of how long it takes consumers to deal with silent and abandoned calls (e.g. X seconds or minutes to answer the phone, deal with the call, take steps to prevent further calls) and how that time should be valued.
- Views on the relationship between silent and abandoned calls and other call types

Response

We believe that the volume of nuisance calls received by consumers has increased considerably since the Statement was last amended. The increasing use of recorded message calls (robocalls) is a feature that was widely predicted.

There has been a significant increase in the incidence of nuisance calls to mobiles over this time because of reduced termination costs, but very little research is being done on this. Nuisance calls to mobiles can be received by young children, or can disturb subscribers who are abroad (when then typically have to pay a roaming charge of £1 to receive the call).

We have carried out a number of projects with Trading Standards teams around the country that have identified a number of types of harm from nuisance calls. These include:-

- Increased risk of financial harm – a proportion of nuisance calls are scams, and a further proportion are some form of mis-selling. Estimates vary, but many believe that around 15% of nuisance calls fall into one of these categories. With the average amount lost to a scam being between £1,000 and £4,000 this is a significant cost (see enclosed).
- Increased risk of trips and falls – we don't amble over to answer a ringing phone, we rush to get to it before it stops ringing. This brings a risk of a trip or fall for older people, or those with mobility problems. This is a particular problem since our research shows that 40% of the calls that these groups receive are nuisance calls. The cost to the NHS of dealing with those who have had a fall is huge, and reducing trips and falls is a public health priority.
- Increased risk of distraction accidents – when someone with dementia is cooking and they break off to answer the phone they may forget to go back to the kitchen. This increases the risk of a fire. Again, if 40% of calls received are nuisance calls then the nuisance calls are significantly increasing the risk of an accident.
- Nuisance calls confuse older people, makes them feel that they are not in control and in some cases hasten their move to long term care.

Consider Anne:-

“Anne has dementia and lives on her own. She has been a victim of several scams and has willingly given her credit card details to cold callers resulting in multiple insurance policies, cover for unnecessary items as well as buying inappropriate health products.

It has been distressing for Anne when she discovers this is the case as often she has no recollection of it and therefore feels vulnerable and that she has been taken advantage of.

trueCall has been an extremely valuable tool enabling Anne to stay in her home longer. It has eliminated these nuisance calls and has had a direct impact on her wellbeing. Anne is more confident and is more positive about her situation; she is also less worried about being able to cope in her home.

The trueCall has really made a positive difference in helping Anne adjust to living with dementia, renewing her faith in her own abilities to cope in her home.”

- Silent and abandoned calls are a particular worry – many older people can't conceive why someone would call them, incur the cost of the call, and then hang up so they try to rationalise what might be happening. Many come to the conclusion that the call was from a burglar watching their home.

We have plenty of case study material from our customers that demonstrate all these problems.

Question 2

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

You may wish to consider the following points in your response:

- Whether the main driver for abandoned calls is the use of ACS or if there are other key drivers.
- Whether you agree with the possible reasons why consumers may receive silent calls and the extent to which they are likely to be a key driver of the overall volume of silent calls as set out in Figure 1.
- Evidence of the key drivers of silent or abandoned calls.
- Aside from mobile coverage, whether there are other issues specific to mobiles that could be causing silent or abandoned calls.
- Any information you have on how long organisations will ring consumers before disconnecting an unanswered calls (e.g. 15 seconds) or how quickly they connect consumers to a live agent (e.g. two seconds).

Response

We believe that while the industry knows what they mean by a silent call, this is not a term fully understood by consumers. When they report calls within the trueCall system they mark calls as silent calls where:-

- They pick up their phone and they hear a dial tone or NU tone
- They hear a few seconds silence before the caller speaks
- They hear the background noise of a call centre, but nobody speaks to them
- They play back their answering machine/voicemail messages they get some messages that are silent

None of these fall into Ofcom's definition of a silent call.

For this reason we believe that Ofcom's figures overstate the number of silent and abandoned calls.

Question 3

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.

Response

We don't have any specialist knowledge to contribute here.

Question 4

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).

You may wish to consider the following points in your response:

- Views on whether it would be worth pursuing any of the potential changes identified in Figures 2 to 4 or if there are other potential changes that should be considered, for example, to make it clearer and easier for stakeholders to understand and follow or to specifically address calls made to mobile phones.
- Data indicating the likely impact of the potential changes in terms of reducing the harm caused by silent and/or abandoned calls and the potential cost of the change (both one-off and ongoing costs).

Response

If the consumer has information these calls will be less frightening. Our proposals for a mandatory, returnable Caller-ID , and a Caller-ID register would go a long way to address these issues and would allow private companies to work alongside the regulators to protect consumers.

Question 5

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 Caller-ID facility; misuse for dishonest gain – scams; and misuse of allocated telephone numbers) or b) other examples of persistent misuse.

You may wish to consider the following points in your response:

- Whether the five general examples of persistent misuse remain relevant or if there are any changes or other types of persistent misuse that we should consider.
- Views on whether there are changes we should consider making to the policy relating to the provision of CLI information (noting the issues we set out in paragraphs 4.8 to 4.15).
- Views on whether it would be useful to clarify how we might use our persistent misuse powers in relation to calls made during unsociable hours and if so how and why.
- Views or evidence on the use of and harm caused by (a) localised CLI or multiple CLIs (b) IVM systems being used for outbound dialling where a consumer is kept on hold rather than immediately connected to a live agent.
- Whether a checklist and/or best practice guide would be use

Response

We would consider:-

- a) Rotating Caller-ID s
- b) Localised Caller-ID s
- c) Call centres hanging up when ask to identify themselves
- d) Failure to present a returnable Caller-ID
- e) Failure to register their calling number on a public register of Caller-IDs

to all be examples of misuse.

Consumers need practical guidance to help them avoid nuisance calls. Call blocking technology can be extremely effective, but the market for blockers and related services is dysfunctional. We believe that Ofcom should take the lead in giving guidance to consumers about the effectiveness of call blocking technology and call registry services so that consumers can make an informed decision.

Question 6

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

Response

The companies that Ofcom have taken action against in recent years have tended to be call centres that are generally compliant, but whose standards have slipped for a period of time. This seems to be a poor use of resources.

Question 7

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.

Response

We don't have any specialist knowledge to contribute here.

Question 8

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.

Response

We don't have any specialist knowledge to contribute here.

Question 9

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

Response

It is extremely difficult for a call centre to prove that their AMD is operating compliantly – this is due to the complexity of the formulae, and the difficulty of determining a reasoned estimate.

Simple clear rules make it easier for call centres to be compliant, and for regulators to demonstrate non-compliance. A requirement to always provide Caller-ID and to register the caller-IDs used in a public database is clear, unambiguous and are easy for call centres to follow.

Proposal for changes to Ofcom's Statement on Persistent Misuse

1. Summary

When an unwanted telemarketing call arrives it imposes a burden on the recipient – annoyance, anxiety, time, etc. This cost is not borne by the caller. There are rules that govern this activity, but the rules can only be enforced if the transgressor can be identified. We believe that it is eminently reasonable that a company that is causing the public annoyance and anxiety should be required to identify itself so that it can be held to account if it breaks the rules.

We propose that Ofcom's current Persistent Misuse Statement is amended to include the following provisions:-

1. All telemarketing calls should carry a valid and returnable Caller-ID.
2. If the called party rings the Caller-ID that was delivered by a telemarketing call it should be answered by a person or a recorded message identifying the company, and the caller should be given the opportunity to opt out of receiving further calls from that company.
3. If a company carries out telemarketing it must register the Caller-IDs it uses with a central publicly accessible register.
4. That it should be considered persistent misuse if a telemarketer fails to properly identify themselves and the company that they work for when asked – for example, by hanging up on the person they called when asked.

This is proportionate – these provisions are already part of the Direct Marketing Association's self-regulatory code of conduct, they mirror provisions already in Ofcom's Persistent Misuse Statement for calls made with Automatic Calling Equipment, and the key provision has been a legal requirement in the USA since 2004.

They can be introduced quickly without primary legislation. Similar changes were made by Ofcom in 2010 in just four months. Allowing for a 3 – 6 month transition period for call centres, these changes could become effective within a year.

This promotes openness and transparency – it gives information and power to consumers who currently feel less helpless in the face of these calls.

Can failure to identify yourself be classed as persistent misuse of a network or service?

Section 128(5) of the Communications Act 2003 says that a person misuses a network or service if:-

'the effect or likely effect of his use of the network or service is to cause another person unnecessarily to suffer annoyance, inconvenience or anxiety'

We have lots of evidence from consumers that the inability to identify callers is a source of anxiety.

It is already a requirement of the Privacy and Electronic Communications (EC Directive) Regulations 2003 that call centres should be required to identify themselves if requested so we would strongly argue that a call centre hiding its identity is misusing the network, and that our suggested amendments would go a long way to resolving this.

The four provisions we are proposing would give consumers much more information about who was calling them. With more information available market forces would then take over :-

- The companies who abused their relationship with their customers would be identified and would lose business.

- People would receive fewer calls from organisations which didn't pass on a Caller-ID, so rogue operators who didn't comply with these provisions would find fewer people prepared to answer their calls.

This is not proposed as the solution to nuisance calls, and it will not be 100% effective but it is cheap and quick to implement and will give the public a lot more information than they have today. Of course some rogues will ignore it, but this argument could be applied to any change that were introduced to the Statement.

The proposed approach will be effective, is proportionate, will not damage the legitimate call centre industry, and can all be achieved quickly without primary legislation. If the rogues did ignore them they would be highlighting their own non-compliance to both the public and to the regulators.

2. The problem

2.1 The anonymity that the telephone system can offer makes it difficult for individuals and regulators to identify and report nuisance callers. Many call centres do not transmit a Caller-ID. Recent research identified that around 48% of nuisance calls arrived without a diallable Caller-ID (23% were from international call centres, 11% from call centres which withheld their number, 6% were from call centres where the caller's number wasn't available (generally VoIP numbers), and 4% do transmit a Caller-ID but the number is invalid e.g. '0', '0000' or '0501').

2.2 Even where the Caller-ID received with a telemarketing call is valid, if you call it you often only get the unobtainable tone or continuous ringing so the caller cannot be identified.

2.3 Many individuals find it disturbing that they can't identify who is calling them. Alun Cairns MP made the point about call centres withholding their numbers very clearly:-

“I suppose it could be compared to someone knocking your door wearing a mask or balaclava. Would we answer the door to such an unknown caller? Of course we wouldn't. Then why do we allow it over the phone?”

2.4 When you try to identify who is calling you by asking the telemarketer to identify the company that they are calling from they will frequently give generic names or will hang up.

3. The solution - changes to Ofcom's Persistent Misuse statement

Consumers need to be able to use the Caller-ID information presented with a call to identify the company that called them. They should be able to do this either by calling the Caller-ID provided with the call, or by looking up the Caller-ID on a public database. This solution shouldn't place an undue burden on legitimate call centres.

Note that there is political support for this. In 2013 the Culture, Media and Sport Select Committee on nuisance calls said in its report 'We recommend that the Government legislates to proscribe the withholding of Caller-ID identification in telephone calls made either for marketing or for establishing marketing leads', and the All-Party Parliamentary Group on Nuisance Calls recommended that 'Every marketing call should carry valid caller line identification'.

We propose that Ofcom implements this by introducing four provisions into its Statement of Policy on the Persistent Misuse of an Electronic Communications Network or Service.

3.1 Provision 1 - All telemarketing calls, charity fundraising calls, market research calls, customer service calls, calls from political parties and debt collection calls should carry a Caller-ID.

3.1.1 This requirement is already in the Persistent Misuse statement, but it only applies to call centres who call using Automatic Calling Systems. We are just proposing that it is extended to all call centres. The DMA code already requires members to do this.

3.1.2 The number presented must not be a premium rate number.

Potential objections

3.1.4 Call centres have privacy rights and should be allowed to withhold their number

Individuals have a right under EU law to hide their identity when they make a phone call, and in some cases the law considers companies to be individuals – if they are sole traders or partnerships.

3.1.4.1 There are very few call centres that operate as sole traders and partnerships. They could be exempted from this provision.

3.1.4.2 In March 2006 Ofcom amended their Statement to class the withholding of Caller-ID an offence for call centres using Automatic Calling Systems. We are not aware of any challenges to this on the basis that a company has a right to privacy.

3.1.4.3 If a company can prove it has a particular need to withhold its number then there could be an exemption granted by Ofcom. It is difficult to think of a circumstance where this is required. An exemption of this sort isn't part of the US legislation, nor part of the current Ofcom Statement.

3.1.5 Call centres may send an incorrect or 'spoofed' Caller-ID

It is possible for call centres calling from overseas, or those using VoIP systems to send a Caller-ID that is not their own either to hide them or to implicate another company. Ofcom already consider the forwarding of inauthentic or misleading Caller-ID information as persistent misuse. We have submitted a separate proposal to Ofcom and the NICC about how the problem of inauthentic Caller-ID could be reduced.

3.1.6 It is impossible for overseas call centres to forward a Caller-ID

Overseas call centres cannot easily send a Caller-ID. Ofcom's Persistent Misuse Statement in 2010 said "Ofcom reluctantly accepts that the technological limits of international networking may result in some dialler calls being delivered to the UK without Caller-ID but flagged 'international'". Telecoms technology has advanced since 2010 and it is possible for calls from overseas networks to 'break out' into the UK network via a UK number. Overseas call centres would complain that this would add costs for them, but we would argue that it would be unfair for a UK call centre to be subject to more stringent regulation than an overseas call centre (in any case many of these companies are calling on behalf of a UK call centre). Analysis of trueCall customer statistics suggests that 31% of nuisance calls are from overseas call centres, and we know that these calls generate a huge number of complaints. International call centres should be required to be compliant.

3.1.7 Withholding Caller-ID isn't misuse

We would argue that since Ofcom have already said in the Statement that it will regard the repeated forwarding of inauthentic or misleading Caller-ID as persistent misuse, then it is not a big step to say that the failure to provide any identifying Caller-ID is misuse, especially since this is already a requirement of the DMA code, and it is also a requirement of the USA Telemarketing Sales Rule.

3.2 Provision 2 - The Caller-ID must be returnable, when you call it you must be able to fully identify the company who called them, and be able to register your opt out from future calls

3.2.1 When the individual calls back the Caller-ID that was delivered they must either speak to a live agent or hear a recorded message. They must be able to identify the company who called them and have the opportunity to opt out of receiving further calls. Companies mustn't use this call as an opportunity to market their product unless the individual asks to be put through to a sales agent.

- 3.2.2 It is important that sufficient details are given for the caller to identify the company. “You were called by The UK Energy Assessment team” is not sufficient. Callers should be told the full company name and address

Potential objections

3.2.3 It would cost too much to comply

Companies may object on the basis of cost, but with a simple answering machine you can play a message to a caller giving details of your company, and record any caller’s request not to be called again. This is already a requirement for those who use Automatic Calling Systems.

3.2.4 Some call centres use the same phone lines to make calls on behalf of a variety of clients and this makes it impossible to comply

Many telemarketing agencies work on behalf multiple clients and that means that when a consumer calls them back to ask to be taken off their list the agency needs to work out which campaign that consumer was called on. Telemarketing companies may say that this is very difficult to do, but given that they are potentially causing consumers anxiety and annoyance by calling them it doesn’t seem unreasonable for them to be required to keep proper records of who they called and when they called them. In any case those call centres that use Automatic Calling Equipment are already obliged to do this under the current persistent misuse rules so this should not be an insurmountable problem.

3.3 Provision 3 - If a company carries out telemarketing it must register the Caller-IDs it uses with a central public register

- 3.3.1 There are already a number of databases on the web to help you look up a company name from a phone number – most notably www.WhoCallsMe.com. Since these are crowdsourced the data is unvalidated and may be maliciously manipulated.

- 3.3.2 We propose that a proper validated database be established that holds sufficient information to allow a consumer to look up a phone number, properly identify the company who called them, and contact details that allow them to contact the company by phone, mail or email to ask to be removed from their calling list.

- 3.3.3 The database would be ‘open access’ so developers can access or download the data and write their own tools to use the information, for example:-

- Existing crowdsourced database such as www.WhoCallsMe.com could link to this database and alongside public comments could show accurate and verified information about the company that made the calls.
- Nuisance calls to mobile phones are a growing problem. If access to the database were made open to third parties then app developers could provide services that tell you the name of the company who is calling you when you receive their call. This open interface model has been hugely successful for Transport For London who, by allowing access to real time data about bus and train arrivals and the availability of bicycles for hire, have encouraged a huge variety of apps to be developed (<http://www.tfl.gov.uk/businessandpartners/syndication/16493.aspx>)

Potential objections

3.3.5 It would cost too much to implement

Someone would have to build and maintain this database – the natural place for this is the Telephone Preference Service. It could be funded by the telemarketing industry by a small increase in fees. (Note that fees for call centres access to the TPS have fallen in recent years).

3.4 Provision 4 - It should be considered persistent misuse if a telemarketer fails to properly identify themselves and the company that they work for when asked – for example by hanging up or giving

information that is insufficient to identify the company.

- 3.4.1 When you try to identify who is calling you by asking the telemarketer to identify the company that they are calling from they often use misleading or generic names that can't be traced back to a real company – for example 'The Debt Advice Line', 'Personal Injury UK', 'The Energy Advisory Front', 'The UK Energy Assessment team'. When you press the caller to properly identify the company they work for – the company name, address and website – they will frequently just hang up on you.
- 3.4.2 It is already a requirement of the Privacy and Electronic Communications (EC Directive) Regulations 2003 that call centres should be required to identify themselves if requested :-

'You must identify yourself when making a telesales call. If asked, you must provide a valid business address or Freephone telephone number at which you can be contacted. When using a subcontractor, the subcontractor's call centre staff must identify the instigator of the call (that is, the organisation on whose behalf they are making the call)'

(From the ICO's web site)

If a call centre fails to properly identify itself by hanging up or giving a generic name then they are contravening these regulations and are therefore misusing an electronic communications network or service.

Potential objections

- 3.4.3 Given that there is a legal requirement for telemarketers to identify themselves, it is difficult to see how anyone could object to this being highlighted in the statement as being a specific case of persistent misuse.

General objection - Rogue companies

- 3.5 It can be argued that the rogues will ignore all four provisions, but this is not a reason not to introduce them. There is a grey area between call centres that are fully complaint and those that are not compliant. These proposed changes will reduce the number of call centres that fall into this grey area, and will make it easier for regulators and consumers to identify those that are not compliant.

4. What impact will this make on consumers?

- 4.1 These proposals would give information and power to consumers who currently feel helpless in the face of these calls. With more information available, market forces could then take over :-
- The companies who abused their relationship with their customers would be identified and would lose business.
 - People would receive fewer calls from organisations which didn't pass on a Caller-ID, so rogue operators who didn't comply with these provisions would find fewer people prepared to answer their calls.
 - If a call from a commercial organisation arrives without a Caller-ID the consumer will be doubly wary of that organisation when they take the call.

5. Is this proportionate?

- 5.1 It is important that any new regulation introduced is proportionate – that it doesn't unduly impact the legitimate telemarketing industry.
- 5.2 It would be difficult for the industry to argue that the provisions we are proposing were disproportionate because all have been part of the Direct Marketing Association's Code of Practice for a number of years (see note 1 below). We would expect the industry to welcome these changes to

level the playing field and introduce this best practice across the whole industry.

- 5.3 The first provision we are proposing – the mandatory use of Caller-ID for telemarketing calls – has been a legal requirement in the USA since 2004 (USA Telemarketing Sales Rule 16 CFR Part 310 – see note 2 below). The Telemarketing Sales Rule also requires this to be a number ‘which is answered during regular business hours’. It has also been required in the UK since 2008 for those who use Automatic Calling Systems under Ofcom’s Persistent Misuse Statement (see note 3). This Statement also requires that this is a number ‘to which a return call may be made’ – this is the key element of the second provision we are proposing.
- 5.4 The provisions we are proposing pass the test of proportionality – they are already implemented in the legitimate call centre industry, parts of them are already a requirement in the UK under certain circumstances, and parts of them have been a legal requirement in the USA for nearly 10 years.

6. Implementation

- 6.1 Ofcom already have powers to fine those who persistently misuse an electronic communications network or service. The definition of ‘Misuse’ was set out in a Statement in 2006 that was revised in 2008, 2009 and 2010 to reflect changes in the telecoms landscape. Generally Ofcom revise the Statement after a consultation. This was the process that was carried out when they amended the Statement in 2008 to require users of Automated Calling Systems to pass on a Caller-ID to which a return call can be made.
- 6.2 This can be done in just a few months – in 2010 Ofcom published a consultation paper on 1st June, closed the consultation on 27th July and published the new Statement on 1st October.
- 6.3 It wouldn’t be reasonable to expect call centres to become compliant immediately. It may take 3 - 6 months for call centres to reorganise themselves to meet these new requirements.

Note 1 : Direct Marketing Association Code of Practice, 4th Edition, February 2012 version

| | | |
|--|-------|---|
| Caller Line Identification | 21.40 | When undertaking outbound calls, members must provide caller line identification to which a return call may be made which is either a geographic number or a non geographic number adopted as a Presentation Number which satisfies the Ofcom Guide to the use of Presentation Numbers |
| Information to be given when calling through CLI | 21.41 | Consumers calling back on the number provided through caller line identification must, either by live operator or a recorded message, be informed: a) the identity of the organisation on whose behalf the call was made (which may not necessarily be the same organisation that makes the call) b) an opportunity to decline further calls from that organisation. Where the recipient phones to decline further calls, they may be informed that this is not an option because of the circumstances of the call, for example debt recovery, customer service, credit management. If a further call is required, this must be on the same basis as 21.33 below c) the message must not include any marketing material and must not be used as an opportunity to market to the recipient. |
| Publication of network and presentation CLIs | 21.42 | Members will record and keep up to date details of: - Organisation name - Contact details for those who wish to be added to their in house do not call list - Network CLIs that they use - Presentation CLIs that they use - CLI text that they forward. This data must be supplied to the Association and will be kept by them on an internal database. This information will be available to the Nuisance Call Bureaux and the public for purpose of allowing them to quickly identify the companies that are calling them. |

http://www.dma.org.uk/sites/default/files/PDF/Code%20of%20practice/COP_scheme4-Feb2012.pdf

Note 2 : USA Telemarketing Sales rule 16 CFR Part 310

Telemarketing means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call.

§ 310.4 Abusive telemarketing acts or practices.

(a) Abusive conduct generally . It is an abusive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

(8) Failing to transmit or cause to be transmitted the telephone number, and, when made available by the telemarketer's carrier, the name of the telemarketer*, to any Caller-ID entification service in use by a recipient of a telemarketing call; provided that it shall not be a violation to substitute (for the name and phone number used in, or billed for, making the call) the name of the seller or charitable organization on behalf of which a telemarketing call is placed, and the seller's or charitable organization's customer or donor service telephone number, which is answered during regular business hours.

http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title16/16cfr310_main_02.tpl

* In the UK the networks don't allow the transmission of the name of the telemarketer

Note 3 : Revised Statement of policy on the Persistent Misuse of an Electronic Communications Network or service 2010

For calls made using Automated Calling Systems

| | |
|-------|--|
| A1.56 | For each outbound call a Caller Line Identification (CLI) number is presented to which a return call may be made which is either a geographic number or a nongeographic number adopted as a Presentation Number which satisfies the Ofcom Guide to the use of Presentation numbers. |
| A1.57 | Ofcom reluctantly accepts that the technological limits of international networking may result in some dialler calls being delivered to the UK without CLI identification but flagged "international". In these circumstances it is even more vital that such centres use the information message and a UK based number so that they may be contacted by called parties after an abandoned call. |

All telemarketing calls - Misuse of a CLI facility

| | |
|-------|--|
| A1.69 | CLI (as defined earlier) is a technology that identifies the number from which a call is made or enables a return call to be made. Ofcom will regard the repeated forwarding of inauthentic or misleading CLI information as persistent misuse. Where users have the ability to choose the CLI number that is forwarded (this is known as a Presentation Number), the deliberate sending of an inauthentic or misleading number from which it is not possible to identify the caller and which does not enable the recipient of a call to return a message is a form of misuse. This is without prejudice to a caller's right to preserve their anonymity by withholding their number. |
| A1.70 | It will also be regarded as a form of misuse to forward a CLI number that has been allocated to a Premium Rate Service provider. A return caller may suffer annoyance or inconvenience by unwittingly making a return call for which they are charged more than they may reasonably expect. |

<http://stakeholders.ofcom.org.uk/binaries/consultations/silentcalls/SilentCalls.pdf>

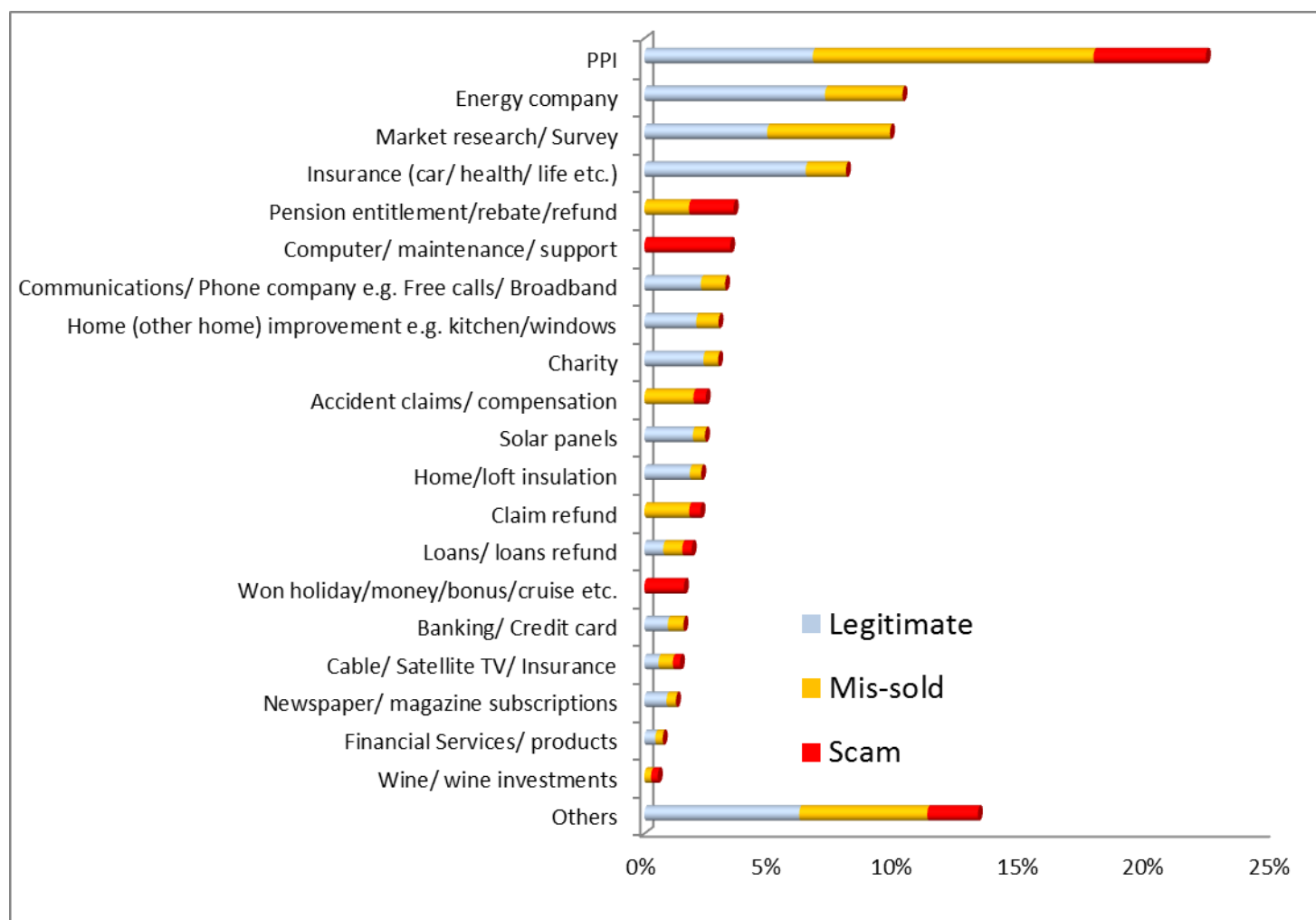
There is no official estimate available of the nuisance phone calls received by UK residents that are scams. This document attempts to make an estimate based upon data from Ofcom's Landline Nuisance Call Panel 17/05/2013.

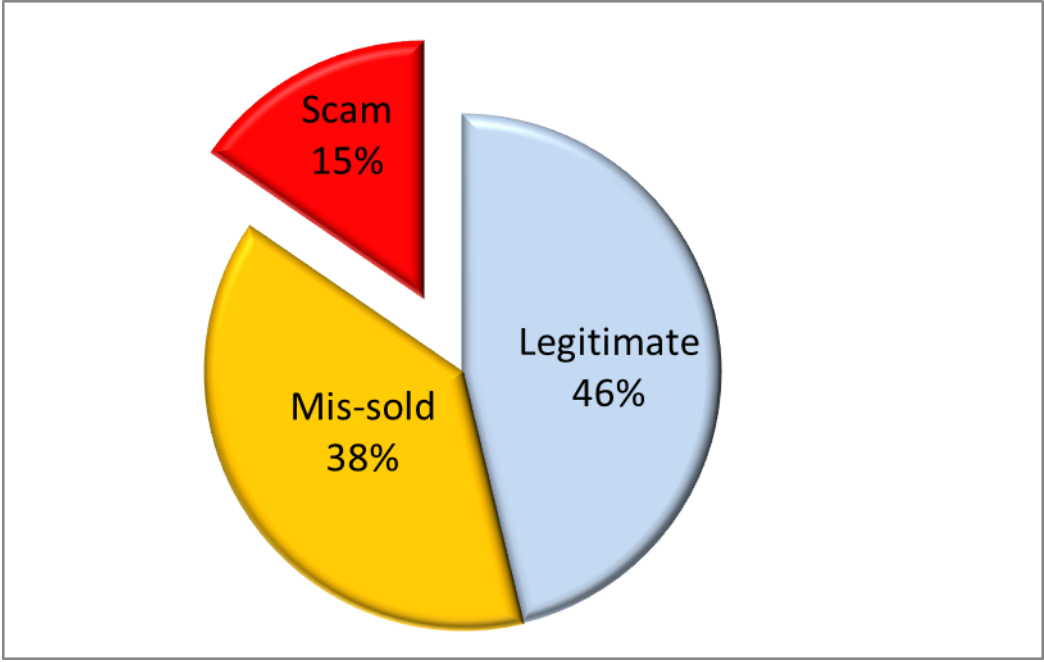
Data was collected in diaries over four weeks between January 2013 and February 2013 from a UK nationally representative sample of 1,136 people with home landline phones. 43% of calls had the source identified – ie the type of call. For each of these call types we have estimated the proportion that are legitimate, mis-selling and scam calls as defined below:-

| | |
|------------------|--|
| Legitimate call | Legitimate products are being sold in a legitimate way over the phone. |
| Mis-selling call | There is a legitimate product, but the sales techniques used are illegitimate. This may involve the use of illegal robocall technology, misleading or exaggerated claims for the product or service, a 'hard sell' approach, the targeting and exploitation of vulnerable consumers, etc. There is some financial risk or unnecessary inconvenience involved for the consumer. |
| Scam call | There is no legitimate product or service - the whole purpose of the approach is to deceive in order to get money or personal information from you. |

Results

We estimate that 15% of nuisance phone calls are scams, and a further 38% of calls are mis-selling of some form or other. 46% of calls are legitimate.





The percentages applied to each call type are shown at the bottom of this document

Assessment of different call types

| Call type | Description | Notes | Percentage of these | | | Amount lost per victim (£) |
|------------------------------------|--|---|---------------------|----------|------|----------------------------|
| | | | Legitimate | Mis-sold | Scam | |
| PPI | Caller offers to process you PPI claim for you | 51% of these calls are robocalls. In 2012 the OFT warned of PPI scams – companies take an up-front fee of £100 - £400 but then do nothing. | 30% | 50% | 20% | £100 - £400 |
| Energy company | Energy companies calling to persuade you to switch supplier | 30% of these are robocalls | 70% | 30% | | |
| Market research/ survey | Genuine market research companies and companies carrying out ‘consumer lifestyle surveys’ | | 50% | 50% | | |
| Communications/ Phone company | Telecoms companies calling to persuade you to switch supplier | 11% of these calls are robocalls | 70% | 30% | | |
| Pension entitlement/ rebate/refund | Companies offer an early release of 25% of the value of your pension | 61% of these calls are robocalls. Citizens Advice say that these schemes are always inadvisable and are often scams. They typically charge 20 – 30% of your pension, plus an up-front fee of £500. When the company transfers your pension offshore the whole amount is at risk. | | 50% | 50% | £500 - £10,000 |
| Accident claims/ compensation | Caller asks whether you have had an accident recently, or claiming that they know that you have had an accident | 9% of these calls are robocalls. Some companies encourage you to claim for whiplash and out of pocket expenses whether or not you suffered loss – this may be fraudulent. | | 80% | 20% | £100 - £500 |
| Insurance (car/ health/ life etc.) | Company calling to offer you a competitive quote on insurance | | 80% | 20% | | |
| Computer/ maintenance / support | The caller tells you that they are calling from Microsoft and that your computer has reported that you have a virus. They will fix it for you. This is a scam – instruct you to download a virus and they will then use it to steal your personal information and/or charge you for its removal. | A Microsoft survey in 2012 said 22 percent of computer users who had received a call were conned into downloading software , 79 percent of those deceived by the callers suffered some kind of financial loss. On average, those who fell for the scam had £500 stolen from them. | | | 100% | £100 - £1,000 |
| Other home improvements | Company calls offering home improvements e.g. kitchen/windows | | 70% | 30% | | |
| Charity | Charities calling asking for donations or increases in regular direct debits | | 80% | 20% | | |
| Solar panels | Company calls offering home | 19% of these calls are robocalls. Companies often make dubious or | 80% | 20% | | |

| | | | | | | |
|--|---|--|-----|-----|------|---------------------|
| | improvements | exaggerated claims about the savings that can be achieved and the government grants that are available | | | | |
| Home/loft insulation | Company calls offering loft insulation. | Companies often make dubious or exaggerated claims about government grants that are available | 80% | 20% | | |
| Claim refund | Company is offering to claim a refund for you that you are due. | 46% of these calls are robocalls. They may require an up-front fee | | 80% | 20% | £100 - £500 |
| Loans/ loans refund | Companies call saying that they can consolidate your debts, reduce your payments and write off some of them. Some claim that new legislations allows you to write off all your debts. | 24% of these calls are robocalls. The headline claim of an entitlement to write off 100% of your debts is untrue. The debt charity Step Change says that by using the wrong company to manage your debts you could make your debt situation worse, rather than better. | 40% | 40% | 20% | £1,000 - £20,000 |
| Won holiday/ money /bonus /cruise etc. | Good news! You have won a Holiday / cruise /lottery! | 29% of these calls are robocalls. Advance fee scams will ask for an up-front fee to 'release your winnings', and they may ask for bank details to enable identity theft. | | | 100% | £500 - £10,000 |
| Banking/ Credit card | Bank offering you a credit card – maybe with a low initial interest rate | 32% of these calls are robocalls | 60% | 40% | | |
| Cable/ Satellite TV/ Insurance | Company offers you insurance for you're your satellite equipment – they often claim to be calling from Sky when in fact they have no association with Sky. | Citizens Advice say that while there are legitimate companies offering this kind of insurance there are also lots of companies operating scams around insurance for satellite television equipment. | 40% | 40% | 20% | £50 - £100 per year |
| Wine/ wine investments | Company calls offering to sell you a fine wine investment. | 37% of these calls are robocalls. There are many reports of these companies taking your money then disappearing – genuine investment companies rarely cold call. | | 50% | 50% | £1,000 - £100,000 |