

COMBATTING NUISANCE CALLS AND TEXTS

A comparative policy study of practices
in multiple countries

Claire Milne

Contents

Nuisance calls – a growing problem	4
A form of pollution	5
Telemarketers' rights versus consumers' rights	6
Variations among countries' experiences	7
Scope for better regulation and enforcement	11
Do not call registers – a common route to addressing the problem	13
How to run a do not call register	17
How effective are do not call registers?	18
Other measures to combat nuisance calls and texts	19
Influencing telemarketers' behaviour directly	19
Working with networks that carry nuisance calls	21
Disciplining data handlers	22
Helping consumers to protect themselves	23
Regulation and enforcement	25
Which authorities regulate nuisance calls?	25
Tools and resources for enforcement	27
Conclusions	29
Endnotes	31

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The study undertook detailed country situation reviews for the USA, Australia, Germany, India/Pakistan and the UK, and situation outlines for Norway, the Netherlands and Canada, as well as the broader overview reflected in this report, whose sources are given in the Endnotes. The detailed country situation reviews will be made available separately, each containing its own sources, which are not all replicated in this overview.



Nuisance calls and texts are a form of pollution, at best an irritant they can also cause real harm. In October 2013 we launched our “Got Their Number” campaign showing that unsolicited marketing calls or text messages had left nearly 8.8 million British adults stressed or anxious. A further 3.2 million British adults were afraid to answer the phone as a result of such unwanted contact¹.

Most worryingly, we found that financially vulnerable households are being tempted into taking out financial products that make their debt problems worse. 1.2 million British adults have been tempted to take out high-cost credit (e.g. payday loans) as a result of unsolicited marketing calls or text messages.

The good news is that since 2013, the UK Government has made positive moves towards addressing the nuisance calls epidemic. The Department for Culture, Media and Sport has unveiled its Nuisance Calls Action Plan. The Government is increasing the powers of the Information Commissioner's Office, allowing it to enforce breaches of the existing rules more easily, and the Financial Conduct Authority has announced it will consult on restricting unsolicited marketing. A taskforce led by the consumer champion, Which?, has also put forward some excellent suggestions on consent to direct marketing, and we hope the Government looks seriously at implementing its proposals.

Whilst recognising that some unsolicited calls are welcome and there are legitimate marketing activities, we believe more can be done to prevent consumer detriment.

Therefore we commissioned Claire Milne MBE of Antelope Consulting, visiting Senior Fellow in the Department of Media and Communications at the London School of Economics to look across the world and carry out a comparative policy

analysis of legal and regulatory approaches to nuisance calls in numerous countries around the world. To our knowledge it is the first of its kind.

It demonstrates that the UK still lags behind other countries in its approach to nuisance calls. Of course some unwelcome calls come from other countries and tackling the problem is difficult. However, the report presents policy makers with some practical options for how they can move us to where we need to be in terms of consumer protection and shows how more can be done regarding international co-operation.

In our response to this report, available separately, we highlight which of these options would best protect financially vulnerable families bombarded with nuisance calls. If adopted they would switch the UK from an opt-out to an opt-in telephone preference service, further increase the powers of regulators to fine offenders, increase the ability of the watchdog to identify wrongdoing, and increase the security offered to consumers considering a high-risk product offered over the telephone.

I therefore urge policy-makers to digest this report and our response and help move the UK further towards a goal of becoming a world-leader in tackling the pollution of nuisance calls and texts.

Mike O'Connor CBE, February 2015

Nuisance calls – a growing problem

Nuisance calls and texts are becoming a problem in many countries, as an unwelcome companion to the spread of (mobile) phones, cheap telecoms, and globalised e-commerce. Telemarketing - that is, phone calls, texts and faxes² intended to stimulate sales³ - is used by businesses of all sizes, from household names to start-ups. This report focuses on unsolicited commercial phone calls and texts⁴.

Figure 1 Findings of YouGov survey commissioned by StepChange Debt Charity in 2013⁵



Some people dismiss unsolicited telemarketing as merely a nuisance that we must learn to live with. But as StepChange Debt Charity has pointed out⁶, nuisance calls can cause real detriment, for example for people who are struggling with problem debt the calls cause not only anxiety and stress, but also maybe further debt (for example, from payday loans). And from a different perspective, unsolicited telemarketing is an example of how increasing electronic connectivity makes it ever harder for individuals and households to set their own boundaries, within which they can lead their private lives secure from intrusion or exposure, while still engaging with society and commerce.

At the same time, telemarketing has become a cover for activities of dubious business value or even legality. Increasingly, the telephone is a route for fraud, often targeting the elderly and people who have already suffered from fraud⁷. The ability to make calls anonymously (or using a false identity), and from a remote location (maybe across a jurisdictional boundary), makes it all too easy for telephone fraudsters to operate with almost no risk of being caught. While fraudulent calls are only a minority of all unwanted calls, their consequences can be serious – whether for the UK pensioner who loses a large chunk of his life savings⁸, the Australian with English as a second language who gets a call in his own language apparently on behalf of a relative in distress⁹, or the Pakistani who finds that all his mobile phone prepaid credit has evaporated (see Figure 2)¹⁰.



A growing problem of telemarketing to elderly people has also been noted in Japan, where the Consumer Affairs Agency highlights that this sales channel now accounts for nearly a quarter of instances of its being consulted by the over-65s¹¹. Chinese consumers are also suffering noticeable increases in unwanted telemarketing.

For example, UK research by Ofcom provides evidence of the incidence of unwanted calls increasing in recent years, to 84% of people with fixed lines in 2014¹³ receiving them in a month (getting an average of two such calls a week). This compares with, for example, in 2012, 71% of respondents saying they had received live marketing calls on fixed lines in the previous six months¹⁴ and lower figures found in earlier research¹⁵. Nuisance figures were lower, though also rising, for mobile phones¹⁶, with 43% of UK adults reporting unwanted text messages in 2012.

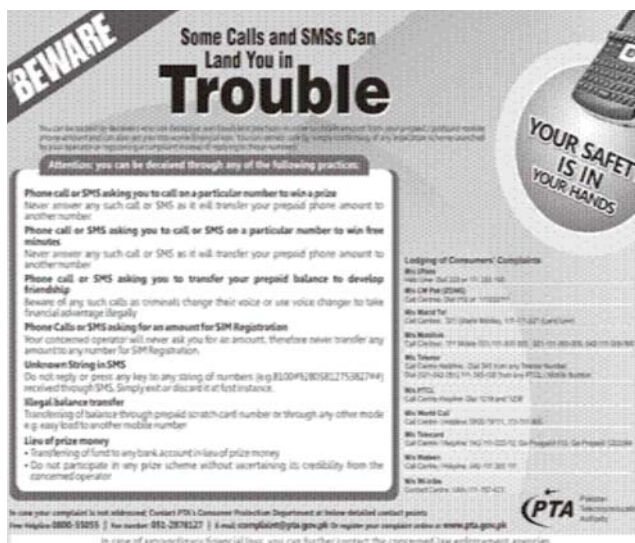


Figure 2 Warning of prepaid mobile phone balance fraud in Pakistan¹²

As we shall see below, complaints to the authorities about nuisance calls have been rising, in the UK, and also in the USA, Canada and Germany. However, complaints often rise in response to changes in the complaints system or publicity about the problem. To understand the underlying problem, separate measurements of calls received are needed.

A form of pollution

As the OECD remarked¹⁷ in relation to legitimate telemarketing, when discussing the economics of consumer policy:

“Telemarketing – calling consumers at their homes to try to sell them products or services – can benefit firms and some consumers. The calls, however, impose costs, like interruption and annoyance, on many consumers. Firms may not consider those costs when deciding whether to engage in telemarketing, how often to call, or which consumers to call. The costs on consumers, therefore, are an externality, and the market may have too much telemarketing.”

In other words, telemarketing which does not benefit consumers is a form of pollution¹⁸.

A standard economic argument in favour of unsolicited outbound telemarketing is that it enables consumers to discover new products of interest. But with increasing internet access and use, this benefit applies to ever fewer consumers – the majority are now finding out all they want, and more, online. Arguably, the pressure selling techniques which characterise much telemarketing in fact reduces consumer choice, by pushing people into hasty decisions and foreclosing alternatives.

Telemarketers' rights versus consumers' rights

When telemarketing regimes are reviewed, people standing up for consumer protection often tussle with the telemarketing industry. Legislators take telemarketers' arguments seriously, because of threatened job losses and possible legal difficulties. Balances are struck between consumers' and telemarketers' rights. But step by step, as we shall see below, countries are recognising that changing technology and economic conditions mean that the balance needs to be shifted in favour of consumer protection.

For example, when setting up the Canadian Do Not Call register in 2007, the Canadian Radio-television and Telecommunications Commission (CRTC) pronounced¹⁹ (this author's bold face):

*"The Commission considers that the prohibition against contacting consumers on the National DNCL may be an infringement on the telemarketer's right to freedom of expression; however, **the Commission is of the view that the prohibition rule appropriately balances the telemarketer's right to freedom of expression with the consumer's rights to privacy and not to listen if he or she so chooses.**"*

Another balancing act took place when in 2011; the telemarketing industry in the USA put forward a legislative proposal²⁰ which would have allowed robocalls to mobile telephones without consumers' express consent. This was fiercely resisted by consumer and public interest representatives and eventually withdrawn.

Across Europe, there is arguably a conflict between telemarketers' rights and consumers' rights when it comes to the provision of meaningful caller identity. Article 8 of the Privacy and Electronic Communications Directive (PECD) requires service providers to enable callers to prevent the presentation of their caller identity, either for all calls from their line or for specific calls (although Article 10 makes an exception "on a temporary basis, upon application of a subscriber requesting the tracing of malicious or nuisance calls"). However, in Germany, Italy and France²¹ it is already illegal to restrict caller identity when calling for marketing purposes; a change in the UK has recently been announced²².

In 2013, the Australian Department of Communications consulted on a review of its Do Not Call system, and included the possibility of moving to an opt-in system (though this was not finally adopted). In its response, the Australian Communication Consumers Action Network (ACCAN) considered costs and benefits to telemarketers and consumers of moving to an opt-in system, as shown in Figure 3, and concluded that the balance favoured an opt-in system. Such an analysis (with country relevant figures) should be a very helpful decision tool for countries reviewing their regimes.

ACCAN's arguments for Australia moving to an opt-in telemarketing system

- Telemarketing contributes little if anything to market efficiency, because:
 - Sales made on the phone are recognised as risking post-call regrets, and therefore subject to a cooling-off period.
 - There is evidence that buying decisions made under pressure on the phone are less good than those made with an opportunity to "shop around".
- Consumers who are not registered and receive unwanted calls experience significant cost to their time, productivity and tying up of telecomms equipment. This cost tends to fall most heavily on vulnerable consumers who may lack awareness or capacity to register their number.
- The act of registering imposes another cost on consumers.
- Only 8% of Australian call centre activity is outbound calling, so reducing this will not affect jobs much.
- An opt-in system would save the cost of running the register, save telemarketers the cost of washing their lists, and benefit telemarketers by enabling them to target their telemarketing efforts towards consumers who are receptive to it.

Source: ACCAN 2014²³

Figure 3 Economic arguments in favour of opt-in

Variations among countries' experiences

Different countries experience unwanted telemarketing in different ways. The worst features may be calls or texts; each of which may be domestic or international in origin; and which may embody pushy sales techniques or outright fraud. Factors tending to increase the problem may include:

- Size and attractiveness of the potential market (that is, consumers with money to spend who can be reached by phone).
- An inadequate or poorly enforced nuisance call regulatory regime, having little deterrent effect.
- Low cost call centre workforce speaking the relevant language. Anglophone nations are particularly open to calls from places like India with a ready supply of relatively low paid English speakers.
- Easy access to data on potential marketing targets, including their phone numbers.
- A fully open telecoms regime, with large numbers of telecoms service providers and low charges to terminate calls to that country.
- Propensities to be distressed by nuisance calls, and to complain about them

Below, we consider available data on complaints about nuisance calls to responsible authorities in different countries. But complaints provide at best a rough guide to the actual levels of nuisance calls being experienced – only a small proportion of people affected ever complain, and they may be encouraged to complain by publicity as well as by getting the calls. Complaints data do however provide insight into the workload on the authorities, and are likely to influence any case for changing the rules.

Actual levels of nuisance calls are not generally known, unless through purpose-designed consumer surveys. Diary surveys like Ofcom's²⁴ (whose findings were mentioned above) should be the most accurate, since participants record unwanted calls as they arrive. Most surveys rely on respondents' memories, and their findings are hard to compare even within one country²⁵, let alone between countries.

To gather together some relevant findings, a Pew survey in the USA in 2012²⁶ found significant incidence of nuisance calls among mobile phone users:

- 68% of mobile phone owners received unwanted sales or marketing calls at one time or another; 25% of cell owners encountered this problem at least a few times a week or more frequently.
- Some 79% of mobile phone owners said they used texts, and 69% of texters said they got unwanted spam or text messages, 25% of them at least weekly. (This works out at about 55% of all mobile phone users reporting unwanted texts, quite a bit higher than the UK 43% the same year).

An Australian survey in late 2013 showed lower incidence of unwanted calls, with only 51% of adult Australians having received unsolicited phone calls during the previous six months, mainly on fixed lines.

Continuing rapid growth of numbers signed up to Do Not Call lists does point to more and more people feeling that they are adversely affected by nuisance call. Figure 4 shows available statistics for a selection of countries. While the statistics are probably not fully comparable, they do show up some clear differences. In particular, they show that the USA has far more registrations per household than any other country. Its Do Not Call list has been around for a long time, is well publicised, is probably about half made up of mobile phone numbers, and continues to grow. In the UK, by contrast, mobile numbers account for under 10% of all those registered.

DNC registrations per 100 households

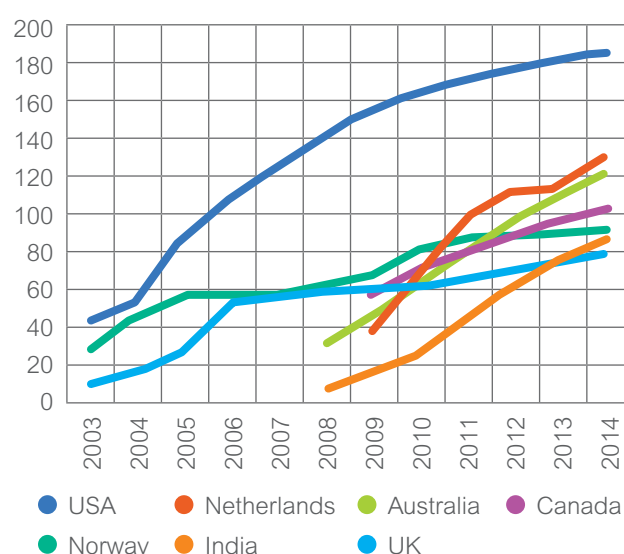


Figure 4 International comparison of Do Not Call (DNC) registration history

Complaints statistics shown in Figure 5 are those provided by the lead regulatory authority to which complaints can be made²⁷, for the most recent complete years for which statistics are available. They may or may not include complaints made elsewhere, e.g. to companies or to local consumer protection authorities. And they may represent just those complaints judged worthy of investigation, or other such category²⁸. But with all these qualifications, the conclusion is inescapable that the US authorities have by far the most complaints. This may reflect the additional nuisance of receiving unsolicited calls on mobile phones – such calls may be charged for, and can also be dangerous, if received while on the move.

Canada comes next after the USA in intensity of complaints²⁹, while Australia and the Netherlands both rate high on registrations and low on complaints. The UK appears to be rather low on registrations and somewhere in the middle on complaints. In the US, Canada and the UK, complaints have eased off somewhat in the most recent year.

We do not have a complaints history for Germany; our best estimate is that the German regulator, BNetzA, in its most recent reporting year, received around 0.32 complaints per 100 households. This was a significant increase on the previous year because of a new system making it easier to complain; however, it is thought that awareness of the possibility of complaining to BNetzA is low. This level of complaints is well below that in the UK, but it may still be seen as surprisingly high given that telemarketing in Germany is on an opt-in basis.

Complaints per year per 100 households

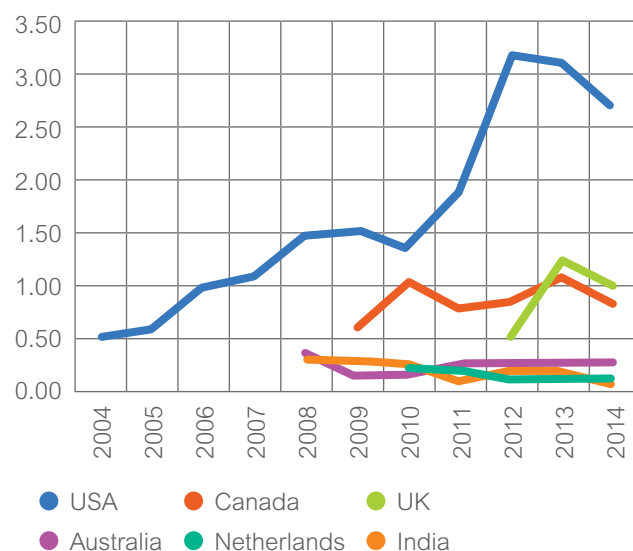


Figure 5 International comparison of annual complaints history

India may be a surprise addition here. It comes to mind as a chief source of troublesome calls into northern Anglophone countries. But it also has its own problems with unsolicited commercial communications (primarily texts) and has gone to great lengths to moderate these – with significant success, at least in terms of declining complaints. Similar remarks apply to Pakistan, which is why detailed reviews of both countries have been included in this study.

Figure 7 summarises some comparisons among the countries reviewed in detail for this study. Differences among them are so great, and objective data on outcomes of regulation so scarce, that it is not possible to say that any one country's model is overall more or less successful than another's – though the Netherlands may be a good example (Figure 6). The study has however highlighted many specific practices worth considering elsewhere, and these appear at the end of this report.



High registration and low complaints in the Netherlands

The Netherlands established a compulsory “do not call” register (<https://www.bel-me-niet.nl/>) as of 1 October 2009, at a time when nuisance calls were causing problems. Since then the situation has improved, with complaints not exceeding 10,000 a year (0.14 per 100 households). Registration is high, at over 8m in a country with 7.6 m households. The majority of Dutch-speaking call centres are in the Netherlands, although some are elsewhere, for example in Dutch-speaking parts of the Caribbean and Turkey (staffed by returned “guest workers”). Scam calls in English (for example, from fake computer engineers) are also sometimes received in the Netherlands.

Consumers can place their numbers in the “do not call” register by Internet, telephone or mail, with the option of blocking all calls or choosing among ten blocking categories. For example, they might block commercial calls but allow calls from charities. 98% of registrants choose to block all calls. In addition, telemarketers must inform consumers at the outset of every telephone call that they can list their names in the “do not call” register. When a consumer wants to be registered, the telemarketer has to process the registration. Registration is free of charge and is permanent, unless the consumer wants otherwise.

As of June 2014, consumer protection law has prohibited the conclusion of binding contracts for recurring services (like an energy contract) over the phone. Agreements made on the phone must be confirmed in writing before they gain force.

The register was set up by the Ministry of Economic Affairs and enforced by the postal and telecommunications regulator OPTA, which in 2013 became part of the new Authority for Consumers and Markets (ACM). Fines of up to a maximum of €450,000 can be imposed on companies that ignore the register. To date the maximum fine that has been imposed on one occasion was €350,000, shared between two companies. Offending companies have been mainly in the energy and lottery sectors.

Figure 6 The situation in the Netherlands³⁰

	UK	USA	Australia	Germany	India
Complaints per 100 households	1.0	2.7	0.3	0.3	0.1
Authorities responsible for nuisance call regulation	Privacy (ICO), communications (Ofcom)(split)	Consumer protection (FTC), communications (FCC)	Communications (ACMA)	Communications (BNetzA)	Communications (TRAI)
Main features of regulatory system	Compulsory do-not-call list	Compulsory do-not-call list plus compulsory conduct rules	Compulsory do-not-call list plus compulsory conduct rules	Opt-in for all telemarketing	Compulsory customer preference list
Telemarketer registration	No	Yes, in 32 states; no, in 18 states	Telemarketer account needed for list washing	No	Yes, with deposits
Consumer registration	Online or by phone to DNC list	Online or by phone to DNC list	Online or by phone or in writing to DNC list	Not relevant	By phone or SMS to shortcode, or online through operators
Consumer complaints	To relevant regulator (or DNC list), online or by phone	Online or by phone to DNC list	To regulator, online or by phone	To regulator, online or by phone, or to Consumer Advice Centres	By phone or SMS to shortcode
Enforcement	Split responsibilities; slow progression through cases leading to occasional heavy fines	Strong well-publicised enforcement with heavy fines, plus private actions	Graduated case handling, relatively few fines and low re-offending rate	Thorough complaints investigation, relatively many small fines, plus many number disconnections	Burden shared with operators; blocking and blacklisting used as well as fining
Comparative statistics	GNI: US\$bn 2,406 Households: 26m Average household size: 2.3	GNI: US\$bn 14,467 Households: 118m Average household size: 2.6	GNI: US\$bn 845 Households: 7.8m Average household size: 2.7	GNI: US\$bn 3,172 Households: 40m Average household size: 2.0	GNI: US\$bn 1,442 Households: 193m Average household size: 4.9

Figure 7 Summary comparison of countries reviewed in detail

Scope for better regulation and enforcement

The study looks at regulation and enforcement. These can often be improved, but it is important to stress that in many countries, including the UK, a growing number of problem calls originate in other countries, both outside the jurisdiction of the destination country and out of reach of destination regulators. Further improvements then depend on technological advances and much greater international co-operation. As Ofcom says³¹:

“The volume of ‘nuisance’ calls is rising, driven by the falling costs of generating calls via IP-based telephony³². IP-based telephony also allows nuisance callers to alter their caller line identification (CLI), not only making nuisance calls more difficult to control but enabling a range of serious frauds”.

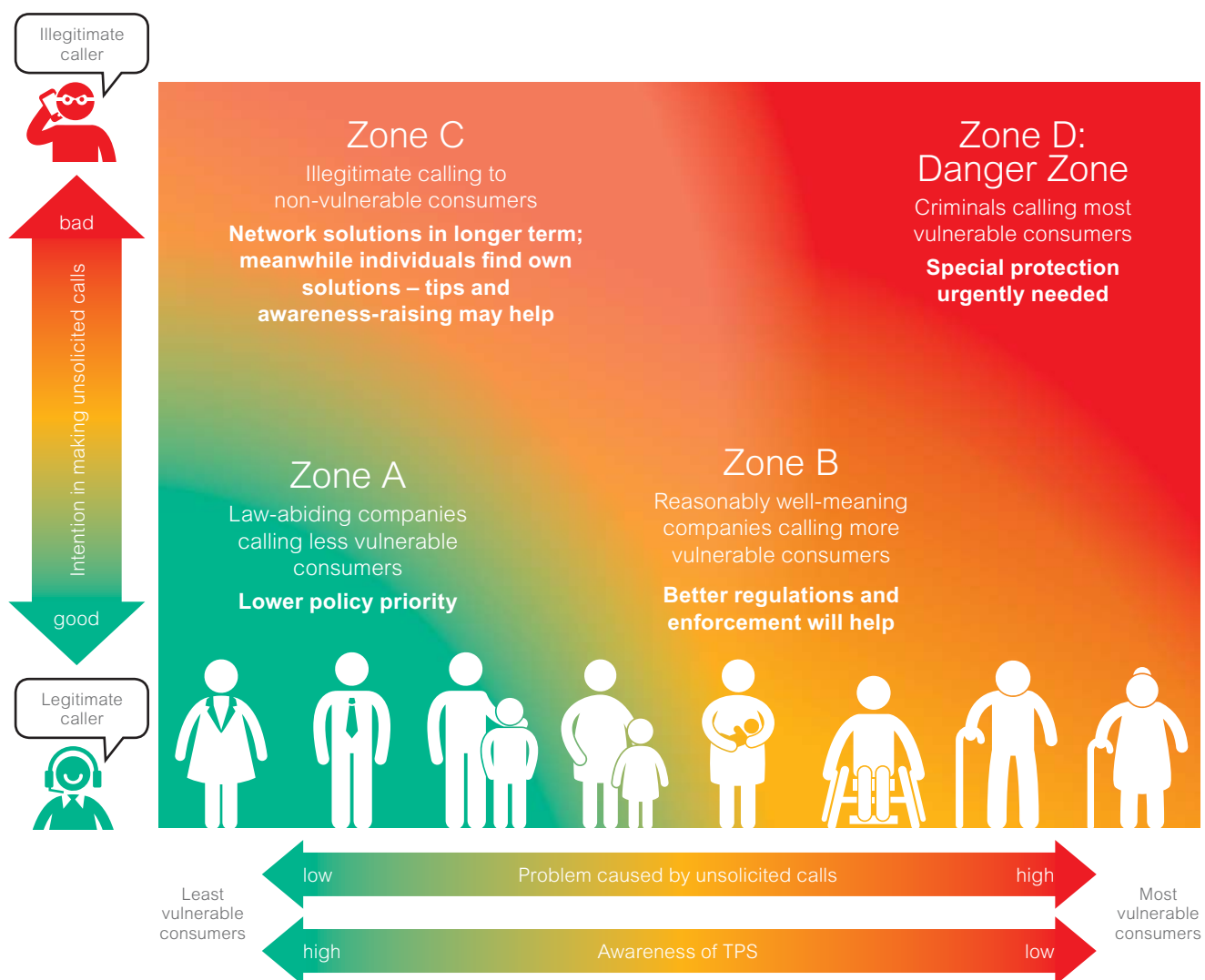


Figure 8 Danger zone and efficacy of different approaches



Figure 8 illustrates how improved regulation and enforcement can help in some cases, but that a large area of need remains for other protections, such as call blocking at individual or network level. For the sake of definiteness the figure is couched in terms of the UK, but similar pictures will apply in other countries.

Across the page we imagine everyone in the UK who receives nuisance calls, in order, from least vulnerable on the left to most vulnerable on the right. Up the page are all the entities that make these calls, again ordered, this time from most law-abiding (at the foot of the figure) to deliberate fraudsters (at the top of the figure). In between there is a whole spectrum of types, including those who mean well but take little care about the rules, and those who have a genuine sales offer but think their profits matter much more than keeping the rules, or are unaware of the rules.

Zone A, in the bottom left-hand corner, shown green, represents law-abiding companies calling the least vulnerable consumers. This zone is a lower policy priority than those that follow

Zone B, at lower right, shaded amber – with reasonably well-meaning companies calling more vulnerable consumers – is where improvements could be made through raising awareness of TPS and through better rules and enforcement, the topic of most of this report.

Zone C, the corresponding area at top left, is where fraudsters call less vulnerable consumers – arguably, here, better consumer advice should help.

Zone D, at top right, represents criminals calling the most vulnerable consumers (who might, for example, be struggling with debt). This is the zone of greatest danger, shaded red. Unfortunately, the criminals are good at covering their tracks, and changing rules will have no effect on entities which deliberately ignore them. Call filtering and blocking is the only quick way to protect these consumers. Longer term, we should see technical advances like better call tracing and the “honeypots” mentioned later in this report.

Sadly, in the UK and some other countries, the proportion of calls from the less law-abiding companies seems to be growing. So measures must address the situations in Zones C and D as well as Zone B, which is naturally the easiest to consider. It is important also to help companies who are not clearly at either end of the behaviour spectrum to move towards the “good” end.

The next section describes the most common approach to restricting nuisance calls which applies to Zone B. The following section describes other measures taken in different countries, a few of which apply to Zones C and D and well as to Zone B. We then consider the management of regulation and enforcement, before closing with a collection of actions from across the board which may be worthy of wider use.

Do not call registers - a common route to addressing the problem



Figure 9 The Robinson staircase

The common regulatory tool for controlling commercial phone calls is “Robinson Lists”³³, also known as “Do Not Call Registers”, which enable consumers to register their phone numbers for exclusion from telemarketing.

The UK’s Telephone Preference Scheme is such a tool. Figure 9 illustrates, and we discuss in more detail below, how registers provide different levels of consumer protection in different countries. All the schemes covered in detail for this study have had at least one review, and these have nearly all led to stronger protections, towards a step up the staircase.

Step 1: In most countries with any data protection law³⁴, as a minimum, companies must stop phoning or texting anyone who asks them to. This means each company keeping records of people who do not want to be called or texted, so this rule may be framed as requiring “internal do not call lists”. Examples of countries at this level are Malaysia, Uruguay and Taiwan.

Step 2: There will be a lot of overlap among internal do not call lists, so a common next step is for companies interested in direct marketing to join forces, with a single list that enables them to avoid calling or texting unreceptive consumers. This is more efficient and also provides better consumer protection. Many countries, such as New Zealand, Switzerland and South Africa, have Robinson Lists run on a voluntary basis by a national direct marketing association, with members bound by the list rules. Typically, rules include not calling any number on the list, and calling other numbers only in accordance with a code of conduct which specifies, for example, permitted calling hours and information that must be provided.

Step 3: When calls from non-members of the association are troublesome, the next step in increasing consumer protection is to make the rules binding on all telemarketers. This is the lowest level permitted by EU legislation (discussed in the next section); the Netherlands and Ireland, for example, are at this level. The UK is also currently at this level, with all telemarketers forbidden to call people who have registered with the Telephone Preference Scheme. However, the relevant Code of Practice³⁵ is run by the Direct Marketing Association, which can only discipline its members³⁶. As in the UK, list management often stays with the original association. The UK is unusual in offering protection to businesses as well as consumers, though its separate Corporate TPS scheme. Note that throughout the EU, the Privacy in Electronic Communications Directive (PECD) requires an opt-in regime for SMS. This was incorporated into UK law via the Privacy and Electronic Communications Regulations 2003 (PECR), which therefore bans unsolicited telemarketing via text.

Step 4: Stronger consumer protection then depends on the detailed rules of the particular compulsory Do Not Call scheme. There is usually room to tighten these up – for example, widening eligibility for registration, reducing exemptions, extending registration periods, and making the whole code of conduct compulsory. The USA and Canada are now being joined by Australia at this level, as the recent Australian review has led to adopting indefinite registration.

Step 5: The strongest level of consumer protection in this progression is an “opt in” system, where people are assumed not to want telemarketing calls unless they record a deliberate contrary choice. Germany, Austria and Israel (according to Figure 11) are examples of countries at this level, as are several other European countries mentioned below.

Going from Step 4 to Step 5 is clearly a major move, but already two of our study countries, Australia and India, have consulted on doing so³⁷:

1. In 2013 the Australian government consulted on changing the Do Not Call Register registration period, and included this option:

“At the current rate of registration (on average approximately 1 million new numbers are registered every year), it is conceivable that in the next decade, all, or at least the vast majority of, households in Australia will have expressed a preference not to receive unsolicited telemarketing calls or marketing faxes. In this case, it may be appropriate to redesign the Register and align it with the Spam Act 2003 (the Spam Act). The Spam Act prohibits the sending of a commercial

electronic message, unless the recipient has consented to the sending of the message.”

2. In its 2010 consultation³⁸, the Indian regulator TRAI proposed moving from its then Do Not Call List to a Do Call List.

It appears that the UK could move to an opt-in regime without primary legislation, by amending the PECR.

Opt-in regimes can have a variety of exceptions, as illustrated in Figure 10 and Figure 11.

Opt-in in Denmark – but with exceptions

In Denmark *The Act on Certain Consumer Contracts* generally prohibits firms from making unsolicited communications – both personal and via telephone – to consumers (Act on Certain Consumer Contracts, 2004). However there are a number of exceptions: for instance it is legal to make unsolicited contact to sell newspapers or book subscriptions, insurance policies or life-saving service arrangements. In these exceptional cases there are a number of arrangements which consumers can enter in order to avoid unsolicited contact. It is for instance possible to avoid addressed circulars and unsolicited telephone calls by adding your name to the so called “Robinson-list”. (OECD 2010, see Endnote 16).

Figure 10 Exceptions to opt-in in Denmark

Strict rules in Israel

A new set of laws adopted in 2008 by Israel generally prohibits the sending of commercial messages by fax, email, automatic telephone dialling or SMS without the prior consent of recipients. The main exceptions to the opt-in rule are: *i)* a one-time approach to a recipient that is a place of business to request consent to receive commercial messages; and *ii)* in the case of an existing customer relationship, if the advertiser has given a customer an opportunity to refuse receiving such messages and provided that any commercial messages relate to products that are similar to the ones purchased by the customer. (OECD 2010, see Endnote 16).

Figure 11 Exceptions to opt-in in Israel

Opt-in or opt-out in Europe

The 2002 European Directive on Privacy and Electronic Communications, the relevant part of which is shown in Figure 12, outlawed the use of automated calling systems without prior consent, but gave EU member states a choice between opt-out and opt-in for live marketing calls. When implementing the Directive, a number of European countries went straight to an opt-in system, by-passing the Robinson staircase. Figure 13 summarises the choices made by Member States as reflected in a 2011 study – 16 had gone for opt-in, and 11 for opt-out, with the UK among the latter³⁹.

European Directive on Privacy and Electronic Communications (2002, as amended in 2009)⁴⁰

Article 13: Unsolicited communications

1. The use of automated calling and communication systems without human intervention (automatic calling machines), facsimile machines (fax) or electronic mail for the purposes of direct marketing may be allowed only in respect of subscribers or users who have given their prior consent.
2. Notwithstanding paragraph 1, where a natural or legal person obtains from its customers their electronic contact details for electronic mail, in the context of the sale of a product or a service, in accordance with Directive 95/46/EC, the same natural or legal person may use these electronic contact details for direct marketing of its own similar products or services provided that customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details at the time of their collection and on the occasion of each message in case the customer has not initially refused such use.

3. Member States shall take appropriate measures to ensure that unsolicited communications for the purposes of direct marketing, in cases other than those referred to in paragraphs 1 and 2, are not allowed either without the consent of the subscribers or users concerned or in respect of subscribers or users who do not wish to receive these communications, the choice between these options to be determined by national legislation, taking into account that both options must be free of charge for the subscriber or user.
4. In any event, the practice of sending electronic mail for the purposes of direct marketing which disguise or conceal the identity of the sender on whose behalf the communication is made, which contravene Article 6 of Directive 2000/31/EC, which do not have a valid address to which the recipient may send a request that such communications cease or which encourage recipients to visit websites that contravene that Article shall be prohibited.
5. Paragraphs 1 and 3 shall apply to subscribers who are natural persons. Member States shall also ensure, in the framework of Community law and applicable national legislation, that the legitimate interests of subscribers other than natural persons with regard to unsolicited communications are sufficiently protected.

Figure 12 The underlying European legal framework for telemarketing



Summary of the position for non-automated calls to individuals in European jurisdictions in 2011, as shared by Fisher Field Waterhouse⁴¹

Basic legal position	Countries where applicable
Opt-in: Prior consent is required to make marketing calls to individuals (16 countries)	Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Hungary, Latvia, Lithuania, Luxembourg, Portugal, Slovakia, Slovenia
Opt-out: It is not permitted to make direct marketing calls to individuals: (i) who have previously objected to such calls; or (ii) who are listed on the opt-out registers (11 countries)	Finland, Greece, Iceland, Ireland, Italy, Malta, Netherlands, Norway, Spain, Sweden, UK
Lesser or no restrictions (3 countries)	Liechtenstein, Poland, Romania

Figure 13 Opting in or opting out in Europe

It is worth clarifying again, as in the USA and most other telemarketing regimes, the Directive regards SMS as a type of email (or “commercial electronic message”, often used as the legal description for email). Therefore unsolicited marketing SMS are subject to an opt-in regime, without the choice offered for live marketing calls⁴².

How to run a do not call register

There are many other details of how do not call lists are run, some of which directly impact telemarketers more than they do consumers. Figure 14 reproduces best practice proposals from an earlier study.

Emerging do-not-call register best practices identified by 2009 Galexia study

Widest possible coverage: Registers with the widest possible coverage have been the most successful. This may require registers to include mobile phones, Voice over Internet Protocol⁴³ and faxes as well as traditional home telephone numbers. The gradual expansion of the registers to cover small business numbers also appears to be inevitable.

List washing: It is now clearly established that there are dangers in releasing the entire list of numbers registered on the Do Not Call register to telemarketers. This occurred briefly during the establishment of the National Do Not Contact List in Canada, and resulted in an *increase* in telemarketing calls. All major registers now require telemarketers to present their target numbers for washing or verification against the numbers on the register. This approach protects privacy and maintains the integrity of the list.

No renewals: Do Not Call Registers sometimes require renewal of registration every 3-5 years. This requirement seems unnecessary as a person is unlikely to change their preferences regarding telemarketing. In the US the renewal requirement was dropped in 2007 and registration is now permanent. Registration is also permanent in the India, Spain and the UK. All jurisdictions should consider removing renewal requirements.

Enforcement: Most jurisdictions have undertaken high profile enforcement activity – setting an example to the entire industry about compliance with the Do Not Call rules. This enforcement activity is in stark contrast to the previous self-regulatory approaches that existed in jurisdictions like Australia and the US, where enforcement was virtually non-existent.

Additional restrictions: In addition to Do Not Call Registers, many jurisdictions have other limits on telemarketing. For example, telemarketing is completely prohibited in Germany, and in Australia telemarketing of financial services products is prohibited. Many jurisdictions have additional restrictions on calling hours, banning calls on Sundays and holidays or outside reasonable hours. Some jurisdictions also ban computerised calls. A combination of these types of specific restrictions and a national Do Not Call Register appears to deliver the best results for consumers.

Source: Galexia 2009 (study of registers in Australia, Canada, India, Spain, the UK and the US)⁴⁴

Figure 14 Do Not Call Register best practice from Galexia study

Other aspects worth considering, as well as those in the Galexia study, include:

- **Consumer publicity.** People can only benefit from the register if they know about it. Registers may get a burst of publicity when they are first set up, but then sink into obscurity.
- **The terms on which businesses access the register.** Arguably, the cheaper and easier it is for companies to get their lists washed (or scrubbed, as they say in the USA), the better protected consumers who are on the lists will be. But if fees for list washing and telemarketer registration need to cover the costs of running the register, this will limit how low they can be⁴⁵. A larger market permits economies of scale, and a more efficient Do Not Call operation. Obviously, the register itself is highly confidential, so should not be widely distributed; in the UK, list washing is carried out by TPS licensees who are bound to confidentiality.
- **Automatic entry of ex-directory numbers.** Many consumers have ex-directory (unlisted) numbers to help to protect their privacy. Avoiding telemarketing is often a major element in this decision. It would seem sensible for ex-directory numbers to be on the Do Not Call register by default, as long as the list is reliably confidential. The Swiss practice⁴⁶ of marking with an asterisk, in published directories, those numbers that telemarketers must not call, seems doomed to fail in less disciplined environments. The Irish variant, of letting the national directory database double as a do not call list, may work well as long as database access is strictly confined to reliable entities.

- **Minimising exceptions.** In all countries, there are exceptions to Do Not Call rules. For example, companies are usually allowed to call their own customers, unless they have objected. And, in Denmark, there are exceptions for the sale of newspapers or book subscriptions, and insurance policies. Presumably, the fewer the exceptions, the greater the consumer protection.

How effective are do not call registers?

People who sign up to Do Not Call registers have reported significant immediate improvements in the amount of unwanted calling that they receive. For example, according to a Harris Interactive Survey conducted in October 2007, 72% of Americans had registered their telephone numbers on their Register, and more than 90 percent of those who registered their numbers reported fewer unwanted telemarketing calls. An earlier US survey, conducted less than a year after the Do Not Call register was implemented, found that people who registered saw a reduction in telemarketing calls from an average of 30 calls per month to an average of 6 per month⁴⁷. More recently, in Singapore 70% of consumers reported fewer unwanted calls within a couple of months of the start of their new register (Figure 15)⁴⁸.

A new Do Not Call Register in Singapore

The Personal Data Protection Commission of Singapore set up a Do Not Call Registry in January 2014, with three registration options (all with indefinite duration):

- No Voice Call Register;
- No Text Message Register; and
- No Fax Message Register.

Two months later they carried out a survey of 1,000 consumers. 48% were aware of the registry, and 84% thought the registry was a good idea to protect consumers' personal data from misuse. 70% had noticed a reduction in unsolicited communications. 43% said they would like to receive telemarketing messages from organisations with which they had a continuing relationship, with a strong preference for SMS (85%) over voice (15%).

Figure 15 Recent change in Singapore⁴⁹

However, this initial positive effect may wear off over time. Research in 2014 by Ofcom⁵⁰ showed that signing up to the UK register led to a 35% reduction in unwanted calls for the new registrants – a reduced proportion from the half found by research in 2006 and 2008⁵¹. In other words, nearly two-thirds of unwanted calls continue when recipients sign up to the UK register.

For four successive years, Canadians who had signed up to the Do Not Call List were surveyed to find out about its effectiveness. The survey findings are shown in Figure 16. While not conclusive, they too are suggestive of some decline over time in the effectiveness of the list.

Survey indications	2009	2010	2011	2012
Noticeably fewer or far fewer telemarketing calls	50%	54%	51%	42%
Slightly fewer telemarketing calls	20%	21%	24%	31%
No such calls at all	10%	10%	5%	5%
More telemarketing calls	13%	12%	15%	18%

Figure 16 Canadian consumer survey findings on effectiveness of Do Not Call List⁵²

This decline in effectiveness of Do Not Call Lists may in part result from companies realising they have little to fear from enforcement of the rules. At the same time, with cheap international calls and Voice over Internet Protocol (VoIP), telemarketing has become more international, and it is ever harder to track down companies that break the rules. The lack of data on the incidence of unwanted calls, mentioned earlier in this report, together with the increase in caller identity spoofing, also mean that we have little knowledge of the origins of the calls⁵³.

Other measures to combat nuisance calls and texts



As has been shown above, even the highest level of protection provided by the Robinson staircase is not enough to protect consumers from an increasing volume of illegal unwanted calls. A range of additional measures is in use or under consideration in the study countries. Measures can be grouped according to the bodies to which they are addressed.

Influencing telemarketers' behaviour directly

Telemarketers can be restrained from calling, or obliged to behave in certain ways when they do call. This is the central aim of Do Not Call registers, the primary regulatory tool discussed above. But in addition there may be:

- Compulsory and enforceable Telemarketing Codes, regulating time of calling and minimum disclosures, bearing on all types of call, including those exempted from Do Not Call rules, such as existing business relationship, charitable, political and research calls (as in Australia, USA, and Canada). Naturally, these add to the enforcement burden, but in Canada in 2013-4, 76% of consumer complaints to CRTC related to having been called despite being on the Do Not Call List or a company's own do not call list, 19% to silent, abandoned and robo calls, and only the remaining 5% to calls outside permitted hours or otherwise breaching the rules.
- Restrictions on telemarketing in particular industry sectors, such as financial services. For example:
 - The United States Telemarketing Sales Rule includes special provisions relating to telemarketing of debt relief services, which require detailed disclosure of how the service works, including how long it will take to produce results, and also severely restrict the amounts and timing of fees.
 - In Australia, the personal information in a consumer credit report may not be used or disclosed by a credit reporting body or a credit provider for the purpose of directly marketing goods or services.
 - In Singapore, under the Moneylenders Act, moneylenders must be licensed, and licensed moneylenders are not allowed to advertise their moneylending services via SMS or voice calls.
 - In the UK, the FCA has recently promised⁵⁴ to consult on expanding its existing rules on telemarketing of financial services⁵⁵, with particular reference to payday lenders. It is already tightening up its rules for credit brokers⁵⁶.

- Special regulations on the use of predictive diallers, to limit the incidence of silent and abandoned calls, exist in the UK, USA, and Canada, but are felt to be unnecessary in Australia (because such calls are not causing problems). Causing nuisance by using predictive diallers can lead to administrative proceedings in Germany. The rules on abandoned calls in USA and Canada are similar to the current ones in the UK, though a little laxer – for example, the permitted abandonment rate is 5% over a month in the USA, and 3% over a month in Canada, compared with 3% over 24 hours in the UK (currently under review⁵⁷).
- A requirement for single-key-press automatic opt-out from future calls (as in the USA, and Hong Kong (Figure 17)).

Unsubscribe facilities in Hong Kong

The Hong Kong Unsolicited Electronic Messages Ordinance of 2007, with its associated regulations, requires all commercial electronic messages, including phone calls, to include a clear and conspicuous statement that the recipient can unsubscribe from future messages by using a convenient unsubscribe facility which is readily available for use by the recipient. The facility must be free of charge and have enough capacity to handle requests to it. For phone calls, at least one unsubscribe facility should be activated by key input of a specified one-digit number, which can be pressed as soon as the unsubscribe statement (which must be slow enough to be reasonably audible) is played.

Figure 17 Unsubscribe facilities in Hong Kong⁵⁸

- Registration or licensing of telemarketers. This can range from the minimal free registration required in Canada – which should result in records of names and addresses of all firms calling in to the Canadian market (see Figure 18) – to the significant bonds required in certain states of the US, and in India, from which penalties for proven misdemeanour can be taken. An alternative approach is voluntary accreditation of telemarketers to high standards, such as the UK TPS Assured scheme⁵⁹, which aims to encourage good practice going beyond that required by the DMA Code of Practice.

Country	Registrations
Canada	10,388
USA	392
India	40
Philippines	24
Pakistan	13
Mexico	4
UK	2
Australia	2

Countries with one registration each: Egypt, Ireland, Japan, Peru, Ukraine, Netherlands, Switzerland, France, Morocco, Singapore, Iran

Figure 18 Telemarketer registrations with CRTC at 31 March 2014

- In India and Pakistan, licensed telemarketers are issued with numbers in recognisable ranges, which makes it much easier to identify and block calls that they originate. To provide an incentive for telemarketers to be licensed, SMS from these number ranges are cheaper to send than those from other ranges. Also, they are not subject to the limits on how many SMS can be sent – currently, in Pakistan, one originating line may send no more than 200 SMS every 15 minutes and no more than 3000 SMS every 24 hours.
- Rules saying that contracts made by phone are invalid without written confirmation (as in the Netherlands for long term contracts, in Germany for lotteries, and generally in Norway, as shown in Figure 19).

Chapter 3. Requirements as to contracts concluded in unsolicited telephone calls

Section 10. *Unsolicited telephone sales calls*

Before a contract is concluded as a result of the trader making an unsolicited offer in a telephone call, the trader shall confirm the offer in writing on a durable medium after the telephone call has ended. The consumer is not bound until the offer has been accepted in writing and the trader shall inform the consumer of this fact in the confirmation mentioned in the first sentence. The trader must be able to document the consumer's acceptance.

Subsection 1 does not apply to the sale of newspaper subscriptions or sales by non-profit organisations.

The Ministry may issue regulations stipulating a requirement of registration in the Register of Non-Profit Organisations pursuant to the Norwegian Register of Non-Profit Organisations Act in order to be counted as a non-profit organisation.

Source: Norwegian Act relating to the duty of disclosure regarding and right to cancel distance contracts and off-premises sales (the Cancellation Act).

Figure 19 Norwegian legal provision on contracts concluded in unsolicited telephone calls

- Attention to the pay structures of call centre staff could be another avenue worth pursuing. If callers' pay depends on how many answered calls they make, they have an incentive to call any answered number repeatedly, irrespective of what the called party may say. This could be a factor in the proliferation of lead generation calls. But on another view, if answered cold calls are likely to encourage more calls, consumers should be advised simply not to answer unscreened phonecalls. Advice like this is already given in relation to spam texts, but for calls it could have much worse side-effects – for example, it would undermine genuine market research over the phone.

Working with networks that carry nuisance calls

Networks can be required or encouraged to discipline telemarketing operations whose calls they carry, or to block illegal calls or enable customers to block unwanted calls. For example, there may be requirements:

- for calls from entities other than private individuals to carry meaningful Caller ID (as in Germany, France, Italy, USA, Australia, and India);
- on network operators to identify (primarily from traffic patterns) and suppress at source illegal telemarketing traffic streams (as in Pakistan);
- on network operators to block specific offending originating numbers, following due process (as in Germany, see Figure 20).

Successful blocking of calls to Germany from an international source

In 2011, consumers received fax newsletters containing stock exchange information ("Swiss Money Report"). The faxes always included a recommendation to buy particular shares whose value, allegedly, would soon rise. According to the complaints received by the BNetzA, these fax newsletters were sent out several times a week. Foreign phone numbers were always given as contact numbers. As the sending often happened during the night, consumers with one line only for telephone and fax were particularly disturbed by the ringing.

The law allows the BNetzA to intervene first and foremost when national numbers are unlawfully used. In such cases it can order the network operator in whose network the number is activated to deactivate the number. This is not possible, however, in relation to foreign network operators.

Even in conjunction with various foreign regulatory authorities it had not been possible to identify the originator or to prevent the unsolicited faxes from being sent out on such a large scale.

The BNetzA, in a test case, ordered connections to and from these numbers to be blocked. The technological feasibility of this had been examined beforehand. The majority of network operators took then steps to prevent incoming connections from the foreign numbers in question.

Source: Review of Germany for this study

Figure 20 Successful blocking of international calls to Germany

The increasing unreliability of calling line identification (CLI, also known as Caller ID) is a major problem for phone networks worldwide. It is caused by the use of new technologies that make it easy to “spoof” calling numbers, and compounded by liberalised markets in which former systems of trust between operators break down. The international technical working group STIR⁶⁰ (part of the Internet Engineering Task Force) is addressing this issue, but progress is expected to be slow. The Voice and Telephony Abuse Special Interest Group⁶¹ of the international Messaging/Malware/Mobile Anti-Abuse Working Group is also now focusing on this and related issues; early outputs include useful papers on telephony honeypots and on mobile messaging best practice for service providers⁶².

In Canada, CRTC is working with the private sector on a system to allow consumers to report calls with spoofed numbers⁶³ by simply keying in the code *50 on their phones.

For technical reasons, nuisance texts are more easily dealt with by network operators than are nuisance calls. Texts are the major form of unsolicited commercial communication in India and Pakistan, where the onus is put on network operators through required Standard Operating Procedures to:

- introduce frequency based filtering to combat bulk SMS ;
- host dedicated short codes to report offending texts, and also for inclusion in the Do Not Call Registers;
- mandate signature verification of bulk SMSs.

Bundled SMS packages (where large numbers of SMS can be bought very cheaply) are a major issue in both countries.

Disciplining data handlers

Data gatherers and handlers are generally required to source and pass on personal data for marketing purposes only with proper attention to the consent of data subjects. Action in this area is the province of data protection regulators, who may (like the UK Information Commissioner’s Office) be working to track data paths and identify illegitimate dealings. However, wrongdoing may only come to light through calls to people who believe that they have not consented to this use of their data, and the meaning of “consent” is not as precise everywhere as it is, for example, in Germany (Figure 21).

Generally, communications are permitted with the customer’s “prior express consent” (this may also have to be in writing). But lesser indications of consent, such as consent thought to be implied through a related transaction, are sometimes enough. The exact meaning of consent to be contacted, particularly by third parties, varies greatly. In the UK, a working group chaired by the consumer association Which? has recently published a report and recommendations on this topic⁶⁴. Clear guidelines aligning with consumers’ natural expectations will be very helpful.

As the Which? Task Force report on consent remarked:

“There is a notable lack of transparency or evidence about the lead generation industry. However, lead generation companies appear to account for a substantial proportion of complaints about nuisance calls and texts. There is a legitimate market for lead generation, but responsible companies are in danger of being overshadowed by rogue businesses.”

The task force made 15 recommendations designed to improve the situation to businesses, industry associations, regulators and government, including a review in Spring 2016 of the entire Nuisance Call Action Plan, to assess the impact of these recommendations and see whether further steps are necessary. By that time it should be possible to take account of any effects of the new EU Data Protection Regulation (whose content is still unclear at the time of writing).

Meaning of consent in Germany

In Germany it is illegal to make a marketing call to a private person without the **prior explicit consent** of the called person.

Consent can be given by ticking a box in a text pre-formulated by a company, but it must be clearly recognizable to the consumer. If the declaration of consent is part of the general terms and conditions, it must be stated in a separate paragraph with no other content. The declaration must precisely name the companies and the products that may be promoted on the phone. A declaration of consent that was made by a consumer can be informally withdrawn at any time.

Source: Review of Germany for this study

Figure 21 Meaning of consent in Germany

Helping consumers to protect themselves

The main activity is publicising Do Not Call Registers and encouraging consumers who do not want to receive telemarketing calls to sign up to them. Consumer advice in the USA, Canada and Australia is clear that this will not stop all unwanted calls. Regulators may provide a range of advice to consumers on how to minimise and handle the calls:

- Consumers may be advised to take care with giving out their personal information when filling in forms, and when answering calls from unknown callers.
- Authorities may suggest that consumers use answering machines or answering services to screen calls, and inform them about the availability of technical call filtering or blocking measures in networks, applications or equipment (such network services are free or low-priced in USA, Canada, and France (see Figure 22)).

Stop Secret: advertisement by mobile provider in France

Find out who's calling you with their number withheld!
Only take the call if you want to!

No contract, activated within 24 hours, €1 a month

How does it work?

If the person calling identifies himself, the phone will ring - I can recognise the voice and know who's calling, even if his number is still secret. Then I can accept or refuse the call.

If the person calling doesn't identify himself, the phone won't ring.

With the VIP list, I can make a list of people I want to hear from who will always get straight through.

Figure 22 A network operator offering in France

The Hong Kong regulator⁶⁵ provides an example of television, radio and poster publicity which accompanied the launch of its Do Not Call register. It's not clear for how long such publicity continued. The Pakistan regulator PTA, with industry support, has publicised the codes for enrolment in SMS blocking and for making complaints in newspapers as well as online (see Figure 23 and Figure 24, and India and Pakistan country review).

English language pre-recorded messages offered by Warid Telecom in Pakistan to its call blocking customers

Ha Ha Ha	Not get through
Self destruct	That's what you deserve
Get a life	Just a hint
Not welcome	Don't try again
It would appear	Too fed up
Number busy	Better use of time
Out of reach	Not wish to speak to you

In addition customers may choose to record their own 15 second message, for a charge of 2 Pakistan rupees and subject to approval.

Figure 23 A network operator offering in Pakistan⁶⁶

Another revolutionary step from PTA for the protection of consumers
Protection from Spam, Obnoxious and Fraudulent Calls and SMS
PTA ensuring protection and facilitation to the users

Beware and stay safe from any calls or SMS based on fraud, deception or obnoxious in nature. Immediately lodge a complaint against them with your service provider at below detailed short code numbers

Operator	CMPak	Mobilink	Ufone	Telenor	Warid
Subscriber level Blocking	420	420	420	420	420
Network level Blocking	9211 & 420	9211 & 420	—	—	345 & 346

* Shortcode 420 will be implemented by December 2011 due to some technical issues faced by the operators and

CONTACT THE REGULATOR (IF REQUIRED)
In case operator doesn't resolve your complaint within the given timeline, contact PTA's Consumer Protection Department with required information

Mode of Lodging Complaint with PTA

Mode	Details	Contact
Toll Free Number	0800-555555	Online
Postal Line	011-9223425	Toll free number for SMS blocking
Email	complaint@pta.gov.pk	0800-25425
Fax	011-3078227	Postal Mail or
		Toll free person

AT ZONAL OFFICES

Zone	Office	Contact
Karachi	021-35680101	Rawalpindi: 011-3764402
Quetta	091-2629476	Lahore: 042-3660022
		Peshawar: 031-9217279

You can register your complaints from Monday to Friday (9:00 - 4:30) at all above mentioned numbers.

Integrating into generating consumer, unattended and fraudulent communication they need to

Termination of service **Blockage of Mobile Number** **Initiation of legal proceedings as per applicable law**

PTA Pakistan Telecommunication Authority
PTA Headquarters F-5/1, Islamabad
www.pta.gov.pk

PTA Protecting the rights of telecom consumers

Figure 24 Warning to consumers by Pakistan Telecoms Authority



The Indian regulator TRAI required all service providers to include the option of registering with the National Do Not Call Registry in the application form at the time of sale of new telephone/ mobile connections. Service providers are also obliged to ensure that all telephone bills, customer service centres, authorised recharge centres, hoardings and websites have the following slogan prominently displayed: “To avoid unwanted telemarketing calls, register your telephone number in NDNC Registry – Call 1909 or Send SMS “START DNC” on 1909”. A similar though shorter message must be included in every recharge confirmation.

There are also independent offerings to help consumers protect their privacy – Figure 25 provides an example from Germany of a very simple online service. In the UK⁶⁷ and some other countries various items of equipment are sold, sometimes with accompanying services, to help consumers filter calls and block those that are unwanted. While some of these work well, others are worth little or are even fraudulent, and may themselves be sold by illegal telemarketing methods⁶⁸. There are also many websites like **www.whocallsme.com** where consumers share information on unwanted calls they have received; these appear all to be privately run, although the data from them is taken into account by enforcement authorities.

Frank answers it

In Germany and Austria, fixed and mobile numbers have been provided that consumers can choose to use instead of their own numbers when filling in forms. Anyone calling these numbers hears an announcement from “Frank” that the consumer does not wish to receive telemarketing calls. Telemarketers are also warned that information about callers to Frank may be captured and passed to enforcement authorities.

“Thanks to Frank” on the website <http://www.frank-geht-ran.de/> go back to 2007 and include many happy emoticons.

Figure 25 An independent offering in Germany

Which authorities regulate nuisance calls?

Country	Year ⁶⁹	Authority	Scope of authority	Notes
UK	1999	Ofcom, ICO	Communications, privacy	Ofcom oversees DNCR, ICO handles DNCR complaints and Ofcom handles silent call complaints
USA	2003	FTC, FCC	Consumer protection, Communications	FCC oversees TCPA (which gives right of individual action)
Spain	2003	AEPD	Privacy	DNCR privately run, oversight from AEPD
Germany	2004	BNetzA	Networks, Communications	Opt-in system, no DNCR
Ireland	2005	Comreg, ODPC	Communications, privacy	Comreg oversees DNCR, ODPC handles complaints
Australia	2006	ACMA	Communications	
India	2007	TRAI	Communications	
Canada	2008	CRTC	Communications	
Hong Kong	2009	Ofca	Communications	
Netherlands	2009	ACM	Consumer protection	
Pakistan	2009	PTA	Communications	Onus for enforcement is on carriers
Italy	2010	MED, GPDP	Communications, privacy	MED oversees DNCR, GPDP handles complaints
France	2011	MEF	Consumer protection	DNCR privately run
Belgium	2012	SPFE	Economy, disputes	
Singapore	2014	PDPC	Privacy	

Figure 26 Some countries with legislation about telemarketing



A difficulty in regulating telemarketing is that it does not usually fit within established regulatory boundaries⁷⁰, and as in the UK, more than one authority may end up sharing the responsibility. Calls and texts are carried on communications networks, so communications regulators have a clear role – and Figure 26 shows that they predominate among authorities responsible for compulsory Do Not Call lists. But the calls can be felt as an invasion of privacy, and result from unexpected or unauthorised sharing of personal data, so privacy commissioners often have a hand in regulating telemarketing. And where there is a general consumer protection authority, this may be the body best placed to handle complaints. Sectoral regulators may also enter the picture, imposing specific rules on for example financial services or energy companies. In several countries, jurisdiction is shared between two or more authorities. Of course, calls that raise suspicion of criminality are a matter for the police, and close liaison between regulators and crime investigators is a must everywhere.

The effectiveness of these arrangements will depend on how well the tasks involved in regulating nuisance calls relate to other duties of the authority in question. Staff skills need to encompass an understanding of telemarketers, call centres, networks, data protection and consumers; database management; the relevant legal regime; and the investigatory and administrative processes of case handling.

Where a single authority holds sway, as in Australia, Canada and the Netherlands, it most likely has an easier time than where constant liaison with other authorities is needed, as in the USA and the UK. The UK is the only country identified where separate enforcement regimes and authorities apply for different types of nuisance call. Only since July 2014 has it become legal for Ofcom and the ICO to share information for enforcement purposes⁷¹. The two regulators still have very different enforcement styles, with ICO aiming to educate companies into compliance, while Ofcom is more likely to clamp down on selected target companies.

Tools and resources for enforcement

It is far from straightforward to compare enforcement between jurisdictions. Figure 27 tackles what may be the easiest aspect to compare - fines, available and imposed. Exact powers of authorities, and necessary procedures, vary. For example, powers to require information for investigatory purposes, such as CRTC has, can make a big difference.

Country	Maximum available fine	Fining history	Exchange rate Nov-14
UK - Ofcom ⁷²	£2m since 2010 (was £50,000)	2007-2009, 9 companies fined a total of £318,500 (averaging £35,000 each); since April 2012, 4 companies fined a total of £1,570,000 (averaging £392,500 each).	
UK - ICO ⁷³	£500,000 since 2011	2013-14, 8 companies fined a total of £670,000 (averaging £84,000 each).	
USA - FTC ⁷⁴	US\$16,000 per violation	To 2014, fines in 118 cases, totalling US\$80m in fines or redress (averaging US\$680,000 each)	US\$1.6=£1
USA - FCC	US\$16,000 per violation	Record fine of US\$7.5m imposed in 2014. Private actions under TCPA have led to total settlements measured in hundreds of millions of US\$ in recent years.	US\$1.6=£1
Canada ⁷⁵	CA\$15,000 per day in violation	To 2013, 70 fines totalling CA\$2,665,900 (averaging CA\$38,000 each). 2013-14, 30 fines totalling CA\$1,060,400 (averaging CA\$35,000 each).	CA\$1.8=£1
Australia ⁷⁶	10,000 penalty units (1 PU=AUS\$170)	Since 2011, 9 companies fined a total of AU\$505,600 (averaging AU\$56,000 each).	AUS\$1.8=£1
Germany ⁷⁷	€300,000 since 2013 (was €50,000)	In 2011-12, 94 fines issued totalling €930,000 (average fine €9,900). In 2013, a call centre was threatened with a fine of €1,000 per call made in violation of consent rules.	€1.3=£1
India ⁷⁸	Rs 250,000	2011-14, fines issued totalling about Rs 89,000,000	Rs 100=£1

Figure 27 Fining powers and practices in certain countries

Sources: country reviews and regulator websites as shown in endnotes.

From Figure 27, together with the sources it is drawn from, we observe:

- Fining levels vary greatly across the study countries, with the USA levying the highest fines and Germany the lowest, based on significant numbers of cases. (Fines also vary a lot case by case within any one country, so averages based on small numbers of cases, as in the UK, can mislead).
- Fining is most selectively imposed in Australia, where it occurs only as the end point of a graduated enforcement process. In Canada, fines are imposed more readily, following violation of an initial order to stop the misdemeanour, but at relatively modest levels.
- In Germany in 2012-3, fines were low but frequent; they were only one tool in the enforcer's toolbox, with number disconnection (especially) and bans on particular business practices also much used. In 2013-4, BNetzA initiated nearly 4,000 administrative proceedings in this area. We do not have comparable figures for other jurisdictions, but this German figure suggests thorough follow-up to complaints.

Effective enforcement forestalls re-offending, and also deters new offences. It is relatively easy to assess re-offending, by counting complaints about those who have already entered the enforcement system; ACMA have shown that their system leads to a low re-offending rate. But deterrence is probably the more important effect, and is hard to disentangle from general educative or warning outreach, or from environmental changes (for example, where a market is in natural decline).

A realistic threat of large penalties should be an effective deterrent, especially where resulting media exposure adds reputational damage. (Unfortunately, many of today's offenders are out of reach of enforcers, and have no reputation to protect). In the USA, we see the FTC's significant fining powers (unlike the UK ICO, the FTC is unconstrained by concern for the company remaining in business) supplemented by unlimited possible damages recoverable through the Telephone Consumer Protection Act (TCPA). Hundreds of millions of dollars have been handed over in out-of-court settlements, as well as in penalties. Yet, at least judged by complaints, the nuisance to consumers seems to remain the world's highest (though there is now a downturn in complaints).

Criminologists say that a high risk of getting caught is a much more effective deterrent than large penalties for those who are caught⁷⁹. The behaviour of non-compliant nuisance callers may well follow this pattern. If so, then enforcement efforts should focus on summary identification of as many culprits as possible, rather than on the long-drawn-out formal proceedings that are properly required before a significant fine can be imposed.

Adequate resources are needed for enforcement. When asked how their resources match up to their job, enforcers tend to say that they could always use more resources, but that by using what they have sensibly they can make a worthwhile impact. Little information on enforcement resources is available from study countries, with Canada as the exception.

In 2013-4, CRTC's DNC enforcement costs were CA\$ 3m, while Bell Canada's operating costs for the DNC register were CA\$ 2.5m. All these costs were covered by telemarketer subscriptions to the DNCL (split 58% to Bell Canada, 42% to CRTC).

The UK's lead enforcer in this area, the ICO, has a total annual spend of around £17.3m⁸⁰ on its data protection work, with PECR concerns (our topic here) since 2012 accounting for around 7% of their relevant casework⁸¹; 7% of ICO's spending and staff would amount to £1.2m on 26 staff. Ofcom also devotes significant resources (£1m was mentioned in its last Annual Report) to policing silent and abandoned calls, which are included in CRTC's remit. So it looks as if enforcement resources may be similar between the UK and Canada, but with the UK authorities having to deal with nearly double the number of complaints, and with less freedom of action than CRTC.

Overall, in relation to enforcement, it may be worth considering:

- Whether resources can usefully be supplemented;
- Whether legal powers are adequate and procedures reasonably streamlined;
- Whether some effort might be refocused towards bringing more offenders into the compliance net, thereby strengthening the impression that offenders are likely to be caught.



As nuisance calls increasingly cross jurisdictional boundaries, so international co-operation becomes ever more important to combatting them. The conclusions of this study relate largely to international co-operation. Various countries' practices which might usefully be considered for transfer elsewhere are also identified.

International co-operation

Standardised survey techniques across interested countries should allow comparisons both in time and among countries of actual levels of nuisance calling experienced, and help to assess the effectiveness of measures to combat the problem.

The Do Not Call Forum of the London Action Plan (an international network of anti-spam enforcement agencies) is tailor-made for co-operation and sharing good practice. To improve enforcement for the increasing proportion of illegal telemarketing that originates outside national boundaries, authorities need to trace and address associated companies within national boundaries. Even if calls are made from a safe distance, there is likely to be at least some national presence for fulfilling any orders eventually made as a result of successful telemarketing. International co-operation will help with this, and also for:

- Gathering intelligence on the sources and content of mass campaigns, for example through “honeypots” (banks of numbers equipped with observation software) such as those now being instituted by the FTC to monitor patterns of calling by telemarketers and robocallers, as well as through analysis of consumer complaints.

- Closer attention to and policing of the sourcing of leads which may eventually be used in telemarketing.
- Co-operation by the authorities in the country where a call centre operates.
- Identifying and gaining co-operation from companies that supply equipment and software to call centres.
- Taking advantage of reports from call centre employees.

It is good to know of international collaboration on restoring meaning to CLI through the IETF *Secure Telephone Identity Revisited (STIR)* Working Group, though less good to hear that it is expected to take several years to achieve results.

To reduce nuisance from illegal calls reaching end users, new technical solutions⁸² are needed analogous to those now used for detecting and suppressing email spam. These will be deployed to maximum effect in networks and will also depend on international co-operation. Like spam filters, they may use various pattern indicators to categorise calls (say into high, medium and low risk of being illegal) and handled accordingly (say, with a high risk rating leading to the call being suppressed and a medium rating to it being delivered to voicemail, without the phone ringing). Again as with email spam, consumers should be able to alter their own settings based on experience with initial default settings.

Possibly transferable practices

Practices from one country may not be appropriate in another, even if they have already worked well elsewhere. Telecom networks, legal frameworks, consumer behaviour and market conditions all vary, and limit what is practicable or worthwhile. But this study has identified certain approaches which could be worthy of more widespread consideration and possible implementation. In particular, we highlight the following:

- Regular reviews of telemarketing rules, with up-to-date research-based understanding of the situations of both callers and called parties (as in Norway).
- Giving consumers the highest level of legal protection against unwanted communications, at the same time simplifying the legal and technical framework, by making all telemarketing opt-in (as in Germany).
- New sleuthing techniques for identifying and tracking down rule-breakers (as in the USA and honeypot collaborators).
- Objective research into the level of unwanted communications being received, permitting comparison through time (and potentially between countries) (as in the UK).
- Laws restricting the conclusion of contracts over the phone, without written confirmation (as in Norway, and for lotteries in Germany, and long-term services in the Netherlands).
- Tightening up both the definition of consent to use of personal data for marketing purposes, and good practice around such consent (as in Germany, and proposed in drafts of the new EU Data Protection Regulation).
- A graduated, co-ordinated and well-publicised enforcement system (as in Australia).
- Per-offence penalties for breaking telemarketing rules, designed to incentivise rapid return to compliance (as in the USA).
- More use of sectoral regulators to combat telemarketing, in cases where calls which comply with general telemarketing rules can still present high risks to their recipients (such as financial services in several countries).
- Co-operation between regulators and networks to identify and block illegal streams of texts or calls (as in Germany, India, and Pakistan).
- Low-cost advanced consumer privacy features in fixed networks (as in France, and some parts of North America).
- Transparent, comprehensive and regular reporting on Do Not Call activities (as in Canada).
- Use of existing customer communications and mass advertising to make mobile users aware that they can sign up to a Do Not Call register, together with an easy way to sign up (e.g. by SMS) (as in India and Pakistan).
- Introduction of a special short code to facilitate quick complaints about unwanted calls (on the lines of the *50 initiative in Canada).
- Registration of legitimate telemarketers (as in Canada), with rules about provision of meaningful CLI (as in most countries studied).

1 Ware, E and Surtees, J (2013); Got their number: Ending the harm caused by nuisance calls and texts

2 Unsolicited commercial faxes were a particular problem for a period, because they used up the recipient's paper and ink as well as tying up the fax line. They are still included in many regulations (generally, it is illegal to send marketing faxes other than to people who have opted in to receive them), but in many countries fax machines have been largely superseded by email – and unsolicited faxes by email spam.

3 The term "sales" is used in a broad sense, encompassing (for example) lead generation, and soliciting charitable donations or political support. However, it excludes calls which are genuinely for market research purposes, while including "sugging" (selling under the guise of market research).

4 Marketing texts are usually covered by the same rules as govern unsolicited faxes and/or emails, that is, they are illegal (with some exceptions) unless the recipient has opted in to receiving them. Throughout this report, the term "call" should be taken to include texts, unless the context requires otherwise.

5 See http://www.stepchange.org/got_their_number.aspx for a description of the research and a link to the full 2013 report Got their number.

6 In its 2013 report Got Their Number, http://www.stepchange.org/Portals/0/Documents/media/reports/got_their_number.pdf, and later (with special reference to payday loans) at <http://www.stepchange.org/Mediacentre/Pressreleases/paydayloansnuisancecalls.aspx>

7 See for example the report from Citizens Advice Scotland (2014), Scammed and Dangerous: The impact of fraudsters, at <http://www.cas.org.uk/system/files/publications/Scammed%20and%20Dangerous%20Published.pdf>

8 See for example <http://www.actionfraud.police.uk/fraud-az-courier-scam>

9 See for example http://www.scamnet.wa.gov.au/scamnet/Types_Of_Scams-Phone_Scams-Native_language_call_scams_.htm

10 See India and Pakistan country review.

11 White Paper on Consumer Affairs, 2014 summary, at http://www.caa.go.jp/en/pdf/whitepaper2014_1.pdf. Pages 32, 34, 43 and 49 are of particular interest, the last of them appearing to illustrate the successful application of call blocking.

12 From India and Pakistan country review for this study.

13 The 2014 figure is from a diary survey, which should be more accurate than omnibus surveys, because the latter rely on respondents' recollections of receiving unwanted calls during a previous period (typically 3 months or 6 months). Other recent UK omnibus surveys (by Which?, Uswitch and BT) have come up with rather higher figures – BT's methodology led to dramatically higher claimed rates of nuisance calls, at 4 times Ofcom's.

14 Ofcom Consumer Experience Research Report 2012, p. 131. 47% of respondents said they had received at least one silent call during that period, and 63% at least one recorded message.

15 Earlier survey findings appear in Brookmead Consulting (2008), TPS Report on Unwelcome Calls. <http://www.truecall.co.uk/media/1934/Brookmead%20Report%202008.pdf>

16 For a fuller discussion see Brookmead Consulting (2012), Nuisance Phone Calls on Mobile Phones, <http://www.truecall.co.uk/media/1935/Nuisance%20calls%20to%20mobile%20phones%202011.pdf>

17 See p.39 of OECD (2010), Consumer Policy Toolkit. <http://www.oecd.org/sti/consumer/consumer-policy-toolkit-9789264079663-en.htm>

18 This view has been discussed by economists in relation to email spam, for example in Rao, J M and Reiley, D H (2012), The economics of spam, The Journal of Economic Perspectives, 26(3) 87:110, at <http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.26.3.87>. This article provides some estimates of costs and benefits for email spam, but does not discuss unsolicited telemarketing.

19 In para 112 of its Decision on Unsolicited Telecommunications Rules framework and the National Do Not Call List at <http://www.crtc.gc.ca/eng/archive/2007/dt2007-48.htm>

20 HR3035, Mobile Informational Call Act of 2011 <https://www.govtrack.us/congress/bills/112/hr3035>

21 Germany: Telecommunications Act § 102 II, Italy: 2010 Regulations no.178 Article 9, France: Consumption Code Article L121-34-2

22 See Hansard 26 November 2014, column 915, where the Minister said: "I am therefore pleased to say that we are now satisfied that we can seek a derogation from the e-privacy directive to impose a requirement to provide CLI on any person making unsolicited calls for direct marketing purposes. The Government will therefore commit today to bring forward secondary legislation to amend the Privacy and Electronic Communications Regulations in the coming months, following an appropriate consultation."

23 ACCAN (2014). Optimal period of Registration on the Do Not Call Register. Submission by the Australian Communications Consumer Action Network to the Department of Communications. http://www.communications.gov.au/_data/assets/pdf_file/0017/214604/Australian_Communications_Consumer_Action_Network.pdf

24 Ofcom diary surveys carried out in 2013 and 2014 are available at http://stakeholders.ofcom.org.uk/market-data-research/other/telecoms-research/nuisance_calls_research/.

25 For example, a BT survey in 2014 appeared to find around four times the incidence of nuisance calls found by other UK surveys (carried out by Ofcom, Which? and Uswitch).

26 Pew Research Center (2012). Mobile Phone Problems. <http://pewinternet.org/Reports/2012/Mobile-phone-problems.aspx>

27 In the case of the UK, figures for the three official bodies receiving complaints – ICO, Ofcom and TPS – have been combined. The ICO introduced an online complaints tool in 2012 which permitted a surge in complaints.

28 The definition of a complaint may also vary, for example in some cases including enquiries.

29 The Canadian complaints are those classified as "actionable", which means they must fulfil certain conditions, typically reducing them to 70%-80% of raw complaints.

30 Source: p.39 of OECD Consumer Policy Toolkit at <http://www.oecd.org/sti/consumer/consumer-policy-toolkit-9789264079663-en.htm>, and private communication with Jan Evert Hummelen of ACM.

31 In its draft Annual Plan for 2015-16, at http://stakeholders.ofcom.org.uk/binaries/consultations/draft-ann-plan-15-16/summary/Draft_Annual_Plan_Consultation.pdf.

32 IP-based telephony, also known as VoIP or Voice over IP (where IP stands for Internet Protocol), is a new technology for phone calls which is becoming increasingly prevalent. Though low-cost and efficient, unfortunately it does not associate calling numbers with calls as has been normal in traditional telephone networks.

33 So called after Robinson Crusoe's splendid freedom from the nuisances of society on his desert island. They were listed in Federation of European Direct and Interactive Marketing (FEDMA) (2007), Global guide to Robinson lists and preference services.

34 72 countries are included in DLA Piper (2014), Data Protection Laws of the World. <http://www.dlapiperdataprotection.com/#handbook/world-map-section>

35 http://dma.org.uk/uploads/Interactive-code-for-web_sept-11_54119ad59a64b.pdf

36 From 1 October 2014, the Claims Management Regulator also requires claims management companies to comply with the DMA Code of Practice. See <https://www.gov.uk/government/publications/claims-management-regulation-conduct-of-authorised-person-rules-2014>.

37 In neither case has the move yet been made, as many consultation responses opposed it.

38 TRAI (2010), Consultation Paper on Review of Telecom Unsolicited Commercial Communications Regulations. Consultation 08/2010. http://www.trai.gov.in/Content/ConDis/500_0.aspx

39 Slightly different information is provided in the European consumer advice website at <http://www.europe-consommateurs.eu/en/consumer-topics/buying-of-goods-and-services/protection-from-unsolicited-ads/>.

40 By Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (Text with EEA relevance) <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32009L0136>

41 Source: http://www.slideshare.net/Event4ITGroup/telemarketing-regulation-in-eu-jurisdictions?qid=69aedb46-615c-4c0b-a6b1-6cb6eb0a6359&v=default&b=&from_search=1. Another useful source for this purpose is European Market Intelligence Group (2008). The European Guide to Data Law. <http://www.rhetoriksolutions.co.uk/media/29228/europeandatalaw.pdf>.

42 As clarified by the following passage from Recital 40 (our boldface): Safeguards should be provided for subscribers against intrusion of their privacy by unsolicited communications for direct marketing purposes in particular by means of automated calling machines, telefaxes, and e-mails, including SMS messages. These forms of unsolicited commercial communications may on the one hand be relatively easy and cheap to send and on the other may impose a burden and/or cost on the recipient. Moreover, in some cases their volume may also cause difficulties for electronic communications networks and terminal equipment. For such forms of unsolicited communications for direct marketing, it is justified to require that prior explicit consent of the recipients is obtained before such communications are addressed to them.

43 See Endnote 31 for an explanation of VoIP.

44 Connolly, Chris and Vierboom, Amy (2009). Emerging Best Practice in Do Not Call Registers. Galexia. Note that this study is now 5 years old; if repeated now, both its input data and its conclusions might differ.

45 In principle, telemarketing financial penalties could also be hypothecated to help offset the costs of maintaining and policing the register.

46 As reported in DLA Piper (2014), Data Protection Laws of the World. <http://www.dlapiperdataprotection.com/#handbook/world-map-section>

47 Box 9-1: The Do Not Call List, in chapter 9: Economic Regulation of Economic Report of the President (2009), <http://www.gpo.gov/fdsys/pkg/ERP-2009/pdf/ERP-2009-chapter9.pdf>.

48 PDPC (Personal Data Protection Commission) (2014). Consumer Survey On The Do Not Call ("DNC") Registry. Singapore. <http://www.pdpc.gov.sg/docs/default-source/Reports/consumer-awareness-survey-report2be413c8844062038829ff0000d98b0f.pdf?sfvrsn=0>

49 See <https://www.pdpc.gov.sg/individuals/do-not-call-registry-you>

50 See Ofcom (2014), Research into effectiveness of the TPS, <http://stakeholders.ofcom.org.uk/market-data-research/other/telecoms-research/tps-effectiveness/>

51 Page 9 of the 2008 Brookmead Report discussed the findings of a 2006 Which? diary exercise and its own MORI research. See Brookmead Consulting (2008), TPS report on unwelcome calls, <http://www.truecall.co.uk/media/1934/Brookmead%20Report%202008.pdf>

52 From CRTC (2013), Report on the Operation of the National Do Not Call List for the period April 1, 2012 to March 31, 2013, <http://www.crtc.gc.ca/eng/dncl/rpt130930.pdf>. More detail on earlier surveys is provided at <http://www.marketwired.com/press-release/do-not-call-list-shows-blocking-power-voxpops-survey-1502464.htm>. CRTC's latest annual report on the National Do Not Call List is at <http://www.crtc.gc.ca/eng/dncl/rpt140930.pdf>.

53 In Ofcom's 2014 diary research (available at http://stakeholders.ofcom.org.uk/market-data-research/other/telecoms-research/nuisance_calls_research/), participants were asked to record the calling number wherever possible, but only did so for 36% of calls. Research by Brookmead Consulting quoted in its 2013 Select Committee submission, presumably based on calls received by trueCall owners, "identified that around 48% of nuisance calls arrived without a diallable Caller-ID. Of these, 26% 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'."

54 In Parliament – see Hansard at http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/141126-0001.htm#stpa_68.

55 See the FCA's rules, for example at <http://fshandbook.info/FS/html/FCA/COBS/4/8>, and its explanation of the rules at <http://www.fca.org.uk/firms/being-regulated/meeting-your-obligations/firm-guides/advice/cold-calling>.

56 See its January 2015 Policy Statement 14/18 at <http://www.fca.org.uk/your-fca/documents/policy-statements/ps14-18>.

57 See <http://stakeholders.ofcom.org.uk/consultations/review-persistent-misuse-powers/>.

58 Source: http://www.ofca.gov.hk/en/industry_focus/uemo/framework/index.html

59 See <http://tpsassured.co.uk/>. At the date of writing, a year after launch, this scheme had had little take-up.

60 <http://datatracker.ietf.org/wg/stir/documents/>

61 <https://www.m3aawg.org/vta-sig>

62 https://www.m3aawg.org/sites/maawg/files/news/M3AAWG_Telephony_Honeypots_BP-2014-08.pdf, https://www.m3aawg.org/sites/maawg/files/news/M3AAWG_Mobile_Messaging_Best%20Practices_Service_Providers.pdf

63 Or, presumably, any call which a consumer wishes to report.

64 Which? (2014), Report of the Nuisance Calls and Texts Task Force on Consent and Lead Generation, <http://www.staticwhich.co.uk/documents/pdf/nuisance-calls-task-force-report-388316.pdf>

65 At http://www.ofca.gov.hk/en/consumer_focus/uemo/dnc_public/publicity_programme/index.html

66 Source: http://waridtel.com/products/call_block_9211/index.php

67 For example, the fixed line incumbent BT has introduced several models of cordless phone with call blocking capabilities. The most advanced of these is described at <http://www.shop.bt.com/products/bt8500-advanced-call-blocker-single-9M2M.html>.

68 See the Telephone Preference Schemes's warnings about bogus TPS calls at <http://www.tpsonline.org.uk/tps/news1.html>.

69 Year when Do Not Call list became compulsory, or of relevant primary legislation.

70 This corresponds with a wide variety of laws as the primary vehicle for the relevant powers. Governing laws may deal mainly with (among other topics) data protection, (tele)communications, consumer protection, fair competition, marketing practices, or the information society.

71 See http://www.legislation.gov.uk/uksi/2014/1825/pdfs/ukxi_20141825_en.pdf.

72 http://stakeholders.ofcom.org.uk/enforcement/competition-bulletins/open-cases/all-open-cases/cw_905/

73 <http://ico.org.uk/enforcement/fines>

74 <http://www.ftc.gov/news-events/media-resources/do-not-call-registry/enforcement>, <http://business.ftc.gov/legal-resources/1193/35> and <http://business.ftc.gov/legal-resources/1192/35>

75 Information from CRTC annual reports on operation of the Do Not Call list, at <http://www.crtc.gc.ca/eng/publications6.htm>

76 <http://www.acma.gov.au/Industry/Marketers/Do-not-call-register/How-to-comply-with-the-Do-Not-Call-Register/do-not-call-register-enforcement-outcomes>

77 Full case list is available at http://www.bundesnetzagentur.de/cln_1412/DE/Sachgebiete/Telekommunikation/Verbraucher/Rufnummernmissbrauch/Massnahmenliste/Massnahmenliste-node.html

78 See India and Pakistan country review.

79 See, for example, <http://www.sentencingproject.org/doc/Deterrence%20Briefing%20.pdf>

80 ICO Annual Report 2013-14, <https://ico.org.uk/media/about-the-ico/documents/1042191/annual-report-2013-14.pdf>

81 Based on data at http://ico.org.uk/about_us/performance/enforcement_performance

82 <http://www.3gpp.org/DynaReport/33838.htm> is the home page of a technical working group addressing these issues in the mobile context.

StepChange Debt Charity London Office

6th floor, Lynton House
7-12 Tavistock Square
London WC1H 9LT

Email: policy@stepchange.org

Web: www.stepchange.org

Twitter: [@stepchange](https://twitter.com/stepchange)

For help and advice with problem debts call
0800 138 1111 Monday to Friday 8am to 8pm
and Saturday 9am to 4pm

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