

Communications Consumer Panel and ACOD's response to DCMS' consultation on 'Requiring direct marketing callers to provide Calling Line Identification (CLI)'

Introduction

The Communications Consumer Panel (the Panel) and the Advisory Committee for Older and Disabled People (ACOD) welcome the opportunity to respond to DCMS' consultation on 'Requiring direct marketing callers to provide Calling Line Identification (CLI)'

The Panel works to protect and promote people's interests in the communications sector. We are an independent statutory body set up under the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers. There are four members of the Panel who represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues.

In their ACOD capacity, Members provide advice to Ofcom on issues relating to older and disabled people including accessibility to telecommunications, television, radio and other services regulated by Ofcom.

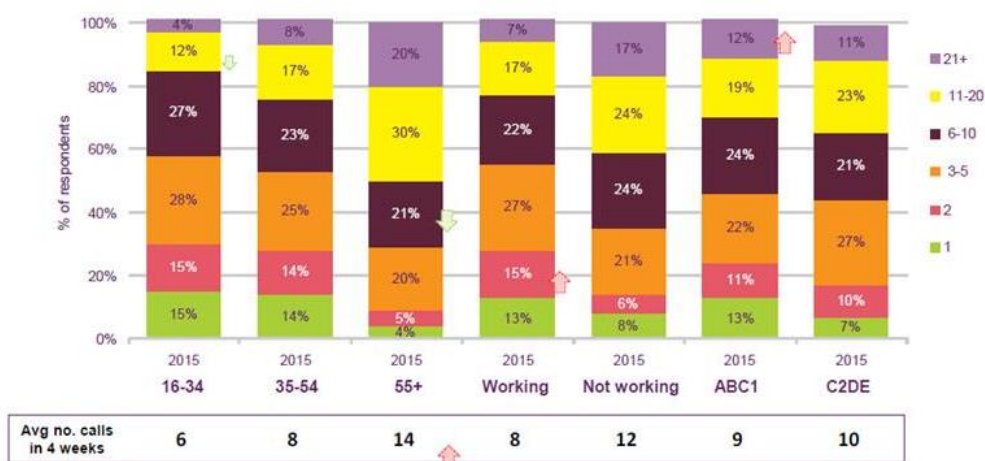
The scale of the problem

The Panel and ACOD fully support the proposal to require that direct marketing companies provide CLI. The problem is significant - Ofcom has estimated that the overall number of nuisance calls made to UK consumers is around 5 billion per year: silent calls comprise about 1.5 billion calls, abandoned calls around 200 million, live sales 1.7 billion calls and recorded sales messages 940 million. For the past three years, Ofcom has commissioned diary research, which involves around 1,000 consumer participants making a record of all the nuisance calls they receive during a four-week period in each study year. The research for 2015 showed that:

- 86% of participants received a nuisance call of some kind on their landline phone;
- 70% received a live marketing or sales call to their landline;
- 60% received a silent call to their landline;
- 52% received a recorded sales call to their landline;
- and 17% received an abandoned call to their landline¹

Older people are also significantly more likely to be affected by the incidence of such calls. In the research, overall experience of nuisance calls increased with age, and those 65 years and over reported a significantly higher incidence of nuisance calls compared with those aged 16-34. For live marketing/sales calls, silent calls, recorded sales calls and ‘other’ nuisance calls, incidence was also higher amongst those aged 65+ compared to those under 55 years old. The incidence of abandoned calls was higher amongst those under 35 than those aged 35-54.

Figure 1.5: Number of calls received by demographics amongst all who received each call type



Base: All UK panel participants with landlines who received each type of call, Jan-Feb 2015 (n=106, 185, 227, 247, 271, 288, 229)

indicates significant change since 2014 at the 99% level
 indicates significant change since 2013 at the 99% level

Silent and abandoned calls are a nuisance to consumers as a whole, but may cause more harm to people who rely solely on their landline, as they will not have alternative messaging channels such as email, IM and text. For example Ofcom’s Consumer Experience report, published earlier this month, showed that the 10% of the UK population living in fixed, voice-only households were more likely to be older people and people on lower incomes².

¹ http://stakeholders.ofcom.org.uk/binaries/telecoms/nuisance-calls-2015/Nuisance_calls_W3_report.pdf

² http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-15/CER_2015_FINAL.pdf

Ofcom's landline panel research illustrated the harmful effect that these calls have on people's use of their telecommunications services - in addition to the annoyance and distress caused to people, 9% of landline users and 6% of mobile users said that they regularly 'do not answer calls at certain times of the day'; 3% of landline users and 7% of mobile users switch the ringtone down or off; and 3% of landline users unplug their phone.

Ofcom also estimated the financial harm caused by all nuisance calls to landlines - at a figure of £406m per year. It estimates £139-169m of this is caused by silent calls and £12-17m by abandoned calls.

Response

Since 2013, we have argued that people cannot make an informed decision about whether to answer a call if they cannot see immediately whether a caller's number is displayed - and if so, what that number is. In the area for which Ofcom has direct responsibility, i.e. abandoned and silent calls, the Guidelines set out that callers should help consumers identify them by ensuring a valid and accurate CLI is available. However this is not currently the case for all marketing calls as the Privacy and Electronic Communications Regulations (PECR) and the Privacy and Electronic Communications Directive contain provisions enabling a calling party to withhold their CLI.

We agree that the Government should amend PECR to make it a requirement for direct marketing callers to provide CLI. Mandatory CLI from direct marketing companies, requiring a genuine telephone number that can be called back, will be a vital tool in protecting and helping consumers. It is right that it should become an industry standard, to ensure that companies that are reckless in their treatment of consumers can be held to account. CLI is useless unless it is accurate, reliable and genuine and the number provided must be one that the consumer can call back - which is important for people who are not active internet users who will have no other way of verifying which organisation made the call.

However, for consumers to truly benefit from the proposed display of CLI on calls from direct marketing companies and be able to make a truly informed decision about whether to answer a call, they must be able to see immediately what that number is. The Panel has urged the provision of free caller line identification (CLI) by default for consumers. The Panel believes that, since it is the service provided by telephone companies, and paid for by the consumer, that is being abused then it is logical for CLI - one of the main available defence mechanisms against nuisance calls - to be freely available to all consumers. Additionally, the CLI service can be used to report nuisance calls to regulators as well as being critical for the effective use of handsets and services that rely on caller display to block and filter certain calls.

“‘Voice-only’ use is most prevalent among older consumers (59% are aged 75+), and among DE households on the socio-economic scale - nearly half (47%) of voice-only homes fall into this category.”

Particularly in light of the Government's drive to ensure the provision of CLI, we cannot see how some communications providers can continue to justify charging for CLI, especially when other providers provide CLI to all their customers free of charge. BT offer CLI at no additional charge for customers who take out 12 months line rental in advance - although it could be argued that there is a cost in terms of making an upfront payment and the consumer being "locked in" to a contract; and such an offer discriminates against those not wealthy enough to make a year's payment in advance. Even so, BT customers are required to indicate separately that they require CLI. If they do not, they are charged £1.75 per month. Virgin Media charge £2.25 a month. KCOM charge KC Local customers £1.02 per month.

Regarding costs and benefits, companies that are operating in a fair and compliant manner should not be negatively affected, but those which are harassing and misleading consumers should be held to account. It is unclear at this stage whether there will be more complaints, or more accurate complaints, that can be investigated more easily. We recognise that the ICO has agreed to handle any new complaints generated by the change, under current resource plans.