

Taskforce Recommendation	Progress
<p>1) Businesses should treat compliance with the law on consumer consent to direct marketing as a board-level issue in the context of corporate risk and consumer trust, and should consider actively joining and promoting accreditation schemes aimed at preventing nuisance calls and texts.</p>	<ul style="list-style-type: none"> <li>▪ Director Level Accountability was announced by the Government in October 2016, making directors personally liable for fines of up to £500,000 for making nuisance calls.</li> </ul>
<p>2) Commit to implementing the Information Commissioner's Office (ICO) guidance in relation to collecting and buying in data. They should specifically make the following clear in their policies and procedures:</p> <p>a) ICO guidance about informing other companies in the data chain when a consumer wants to opt out of all marketing calls or texts must be followed. This should include providing a way for consumers to easily revoke their consent.</p> <p>b) Businesses carrying out marketing activity should view the ICO guidance on a six-month time limit for third party consent as a minimum standard.</p> <p>c) Third party consent will not be sufficient to override Telephone Preference Service (TPS) registration, and businesses that purchase leads must screen all telephone numbers obtained from third parties against the TPS unless the company making the calls has been specifically named.</p> <p>d) Businesses should record standard information as proof of consent (as recommended by the ICO) in a format that can be used by future recipients of the data.</p>	<ul style="list-style-type: none"> <li>▪ ICO guidance is being put on a statutory footing via new measures in the Digital Economy Bill, this will make a good deal of these objectives compulsory.</li> <li>▪ The UK Government intend to implement in full GDPR directive, which will standardise and simplify both giving and revoking consent.</li> <li>▪ ICO have now been given oversight of the TPS in order to make enforcement and prosecution of TPS violations more efficient.</li> </ul>
<p>3) Codes of conduct produced by industry bodies should require members to follow good practice guidance on obtaining, recording and sharing consent for marketing, with reference to ICO guidance where appropriate. Member organisations that breach these requirements should be held to account.</p>	<ul style="list-style-type: none"> <li>▪ ICO guidance is being put onto a statutory footing through the Digital Economy Bill. The ICO will consult on this new guidance in early 2017.</li> <li>▪ This will ensure all organisations involved in marketing activity must comply with ICO guidance.</li> <li>▪ GDPR will be implemented by spring 2018 which will bring into force much more strict controls on the use of data and mandate for making consent easy to revoke.</li> </ul>
<p>4) The Competition and Markets Authority (CMA) should take account of the findings of the Task Force and our recommended actions in any work it undertakes on the commercial use of personal data. This should include identifying systemic consumer harm or</p>	<ul style="list-style-type: none"> <li>▪ In early 2016, the CMA launched a call for inputs on commercial use of consumer data, which they published the findings of in June. In the summary the CMA recommended that:             <ul style="list-style-type: none"> <li>▪ consumers should know when and how their data is</li> </ul> </li> </ul>

<p>protection issues. We recommend that the CMA should work closely with the ICO and other regulators where appropriate to understand the issues and to identify action that could remedy problems.</p>	<ul style="list-style-type: none"> <li>▪ being collected and used and be able to decide whether and how to participate</li> <li>▪ the regulation of data should ensure the protection of essential rights such as privacy</li> <li>▪ where there are breaches of regulations, enforcement must be undertaken proportionately and effectively</li> <li>▪ The ICO have an ongoing relationship with the CMA, and the CMA consult with ICO as required in their work.</li> </ul>
<p>5) The ICO should build on its existing direct marketing guidance to offer further good practice solutions to the causes of nuisance calls, including:</p> <p>a. A model approach, tested on consumers, to privacy notices and consumer communications which exemplifies best practice for providing information to consumers. This should include wording for opt-in, opt-out, third party consent, and information on controlling and revoking consent in the future. The aim should be that this becomes the industry standard for compliance with the law, and easily recognised by consumers.</p>	<ul style="list-style-type: none"> <li>▪ ICO recently published a new best practice guide in September 2016, 'Privacy Notices Code of Practice'. This guide provides best practice examples and wording for opt-in. It does not provide opt out wording, as they do not wish to encourage opt-out, as they do not regard it as best practice.</li> <li>▪ The guidance contains a revised and expanded section on tools to enable better information control.</li> <li>▪ The implementation of GDPR will make revoking consent 'as easy as giving it', and ICO will revise their guidance to reflect this once it comes into force.</li> </ul>
<p>b. Clear guidance that consent for marketing practices should always be separate from consent for other business practices. If consent for marketing is a precondition for a consumer offer, for example when entering a competition, it must be made clear how this transaction can be completed without providing consent for marketing.</p>	<ul style="list-style-type: none"> <li>▪ In the new Privacy Notice Code, and in their revised Guidance, ICO have included sections on consent which is separate from other business practices.</li> <li>▪ ICO are also developing a new section on consent for their guidance, which will be published in January 2017.</li> </ul>
<p>c. A practical guide, produced in conjunction with representative groups such as the Federation of Small Businesses, the British Chambers of Commerce and the National Council for Voluntary Organisations, to enable organisations of all sizes to comply with the law but with a particular focus on helping SMEs and small charities, including a checklist of requirements for marketing organisations to help them purchase 'safe' leads.</p>	<ul style="list-style-type: none"> <li>▪ ICO published an updated set of guidance, checklists, and tools on their website in May 2016 to serve as a practical guide to help a variety of different sectors comply with regulations.</li> <li>▪ ICO also worked closely with NCVO in developing these tools, and in helping them set up the Charity Fundraising TPS.</li> </ul>
<p>d. Further work with industry bodies to develop an interoperable standard format for recording consent.</p>	<ul style="list-style-type: none"> <li>▪ ICO are aware further action needs to be taken here in order to ensure effective implementation of GDPR, and we should seek to support them and influence the implementation of GDPR to ensure it is done effectively.</li> </ul>
<p>6) The ICO should work with industry bodies to develop technical</p>	<ul style="list-style-type: none"> <li>▪ The GDPR will come into force in the next 18 months, and will</li> </ul>

<p>solutions to enable and standardise the process of consumers revoking their consent.</p>	<p>require standard formats for recording consent.</p> <ul style="list-style-type: none"> <li>▪ ICO are issuing new guidance on consent in early 2017 which will also cover best practice on recording consent.</li> <li>▪ ICO will also be running a 'phase two' consultation on new products for recording consent in 2017 to understand the new technologies emerging in this area.</li> </ul>
<p>7) The ICO should undertake regular reviews of marketing organisations' practices, including by undertaking mystery shopping, and conduct further analysis of complaints data to ensure compliance with their rules and guidance. Analysis and intelligence should continue to be shared with other relevant bodies to prioritise enforcement action.</p>	<ul style="list-style-type: none"> <li>▪ ICO have developed a number of operations and working groups which regularly review practices: <ul style="list-style-type: none"> <li>▪ Operation Linden</li> <li>▪ Monthly Threat Assessments</li> <li>▪ Operation Bowler carries out mystery shopping</li> <li>▪ Operation Hydra is examining lead generation and data brokerage practices.</li> <li>▪ Regular liaison with other stakeholders such as National Trading Standard Scam Team.</li> <li>▪ ICO is also a member of the Unsolicited Communications Network.</li> </ul> </li> <li>▪ The ICO enforcement team is undertaking ongoing action to tackle bad practice. They have issued £1 million of fines to date, and another £1.5 million are due in the next financial year.</li> </ul>
<p>8) Ofcom should assess the current level of consumer awareness and understanding of the TPS, for both fixed and mobile phone users. In light of this evidence it should consider whether more should be done to increase consumer awareness by, for example, renaming the TPS, launching a consumer awareness campaign, or finding other channels to further promote the service, such as how to engage consumers with TPS when they sign a new mobile phone contract.</p>	<ul style="list-style-type: none"> <li>▪ In May 2016, the TPS had an awareness drive for their mobile service, encouraging people to sign up via text message to TPS.</li> <li>▪ The Government have now transferred responsibility for TPS from Ofcom to the ICO.</li> </ul>
<p>9) Sector regulators and the ICO should work closely together to ensure that their conduct rules and requirements take full account of ICO guidance on direct marketing, and should hold to account businesses that do not comply.</p>	<ul style="list-style-type: none"> <li>▪ ICO have an established liaison team with ongoing relationships with a number of sector regulators and bodies including <ul style="list-style-type: none"> <li>▪ Direct Marketing Association</li> <li>▪ Claims Management Regulator</li> <li>▪ Solicitor Regulation Authority</li> <li>▪ Fundraising regulator (have just secured a MoU with them)</li> </ul> </li> <li>▪ All these industry bodies are proactive in their compliance with ICO guidance.</li> </ul>

<p>10) The Department of Culture, Media and Sport, and the Ministry of Justice, should review the ability of the ICO to hold to account board-level executives who fail to comply with rules and guidance on the use of consumers' personal data for marketing purposes, and amend legislation to give the ICO further powers as necessary.</p>	<ul style="list-style-type: none"> <li>▪ Director Level Accountability was announced by the Government in October 2016.</li> <li>▪ ICO guidance will be made statutory under the Digital Economy Bill, expected to come into force in April 2017.</li> </ul>
<p>11) A cross-sector business awareness campaign should be led by DCMS and BIS, bringing together businesses demonstrating best practice in this area, regulators such as ICO and Ofcom, and consumer groups.</p>	<ul style="list-style-type: none"> <li>▪ The UK Government has not run an awareness campaign.</li> <li>▪ The UK Government originally stated that it believed that the ICO and Ofcom were better placed to provide information, but accepted that the Government may consider taking action in very specific interventions where there was a clear case for action.</li> </ul>
<p>12) DCMS should undertake a review of the Nuisance Calls Action Plan in Spring 2016, including an assessment of the impact of these recommendations, and consider whether further steps are necessary.</p>	<ul style="list-style-type: none"> <li>▪ The UK Government did not carry out a review of the plan in 2016, arguing that it reviews its work on an on-going basis.</li> </ul>
<p>13) In conjunction with evidence and recommendations from the CMA and other regulators, the Government should consider how future legislation, particularly at a European level, might be used to tackle nuisance marketing.</p>	<ul style="list-style-type: none"> <li>▪ The UK Government will introduce in full GDPR by Spring 2018 to keep the UK in line with European standards around data protection and to tackle nuisance marketing via improving the consent revocation process.</li> </ul>
<p>14) The Government should consider the potential impact on consumers of nuisance calls and texts by undertaking privacy impact assessments during the development of policy.</p>	<ul style="list-style-type: none"> <li>▪ Privacy Impact Assessments are undertaken on occasion, however there is a question about how widespread they are and whether they are being used effectively to take into account nuisance calls.</li> <li>▪ DCMS Ministers have stated that the ICO and MoJ were working together to 'raise the profile' of PIAs across Whitehall.</li> </ul>
<p>15) Public authorities should support the take-up of accreditation schemes such as TPS Assured by taking them into account during the procurement process for call centres.</p>	<ul style="list-style-type: none"> <li>▪ In December 2015, former Minister Ed Vaizey wrote to the CEOs of Capita PLC and HGS UK, both of whom make calls on behalf of the UK Government, and asked them to accredit to TPS. We are not aware of whether this was successful.</li> </ul>