

# Information Commissioner's Consultation

## trueCall's briefing



### Overview

Under the current rules the Information Commissioner can fine companies for:-

1. Cold calling people who are registered on TPS
2. Calling people who have asked not to be called
3. Calling someone using a recorded message if that person hasn't previously consented to receiving such calls
4. Sending a text message to someone who hasn't previously consented to receiving their text messages

The problem that the Information Commissioner faces is that they can only fine companies if it can be demonstrated that they have caused 'substantial damage or substantial distress'. This is a very high bar, and it is extremely difficult to prove.

Last year the Information Commissioner fined Tetras Telecoms £300,000 for sending millions of unlawful nuisance text messages over three years. The case was lost on appeal - the judge said "In our judgement the effect of the contravention is likely to be widespread irritation, but not widespread distress."

The Information Commissioner wants to change the rules so that they can confidently go after those who are causing the most nuisance.

### Options

Three options have been put forward:-

Option 1	Leave things the way that they are – a call centre has to cause 'substantial damage or substantial distress' before they can be fined.
Option 2	Change the threshold from 'substantial damage or substantial distress' to 'Annoyance, inconvenience or anxiety'.
Option 3	Remove the threshold completely – if the company breaks the law they can be fined

The Government and Information Commissioner's preference is option 3, but their final decision will be based upon the responses that they receive to their consultation.

### What we think

Currently it is OK for a call centre to break the law so long as they don't cause 'substantial damage or substantial distress'. This seems crazy to us – the four activities listed above are illegal, and if a company breaks the law the Information Commissioner should be able to fine them. We don't believe that it should be required for the Information Commissioner to assess the impact that the calls have had on people.

### Have your say!

So what do you think?

Now is an opportunity for you to get your voice heard. Typically these sorts of consultations get a few dozen responses, so every response does make a difference. The consultation closes on 6<sup>th</sup> December 2014.

You can read the full consultation document here –

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/367498/LOWERING\\_THE\\_LEGAL\\_THRESHOLD.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367498/LOWERING_THE_LEGAL_THRESHOLD.pdf)

In 2010 the Government consulted on increasing the maximum fine for companies making silent calls from £50,000 to £2 million. They got 117 responses to their consultation from members of the public, and we know that over half of these came from trueCall customers. We were successful in getting the maximum fine increased to £2m.

You really can make a difference, so take a few minutes to send an email stating your views to [lhtsham.hussain@culture.gsi.gov.uk](mailto:lhtsham.hussain@culture.gsi.gov.uk). Please mention that you use trueCall to block these calls, and by all means copy us in as we'd like to know what ever one is saying ([consultation@trueCall.co.uk](mailto:consultation@trueCall.co.uk)).