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Frank Phillips
Competition & Markets
Ofcom
Riverside House
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BY EMAIL: frank.phillips@ofcom.org.uk

21 December 2005

Dear Frank

Please find enclosed H3G's response to the consultation on the "Statement of policy on the persistent misuse of an electronic communications network or electronic communications service".

H3G welcomes these proposals as a genuine attempt to alleviate the nuisance caused to consumers by silent or abandoned calls. The procedures and requirements outlined in the statement broadly reflect H3G's own processes, and we therefore have no concerns with regard to adhering to the revised requirements should Ofcom decide to proceed with them.

If you have any queries or questions regarding our response please do not hesitate to contact me on 07782 329329 or by e-mail to Julie.minns@three.co.uk.

Yours sincerely

JULIE MINNS
Head of Content & Consumer Regulation

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Statement of policy on the persistent misuse of an electronic communications network or electronic communications service

To (Ofcom contact): Frank Phillips

Name of respondent: Julie Minns

Representing (self or organisation/s): Hutchison 3G UK Ltd

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

Name/contact details/
job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes

No

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and all intellectual property rights in the response vest with Ofcom. If I have sent my response by email, Ofcom can disregard any standard email text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non confidential (in whole or in part) and you would prefer us to publish your response only once the consultation has ended, please tick here

Hutchison 3G

Hutchison 3G UK Limited, (“H3G”), launched third generation (“3G”) mobile services to UK consumers in March 2003. It was the first UK mobile network operator to provide 3G services. Since 2003 it has led the market in the development and delivery of 3G and brought much needed competition to a saturated mobile industry. By delivering real value and choice for UK consumers it has attracted over three million customers since launch and is the fastest growing mobile network in the history of the UK. In meeting its coverage obligations ahead of schedule it currently provides 3G network coverage to over 85% of the UK population, and via a national roaming agreement with O2, it provides voice and text coverage to 99% of the UK population.

Overview

H3G's priority is to provide quality services to customers and to reduce any inconvenience or harm that may be experienced by users of its network and services. That is why we have an established process for malicious calls (including malicious video calls); clear processes to enable customer to report any apparent scams and clear editorial guidelines for the provision of content services so that any offence experienced by our customers accessing our content services, is investigated and dealt with appropriately.

We have also put in place processes to ensure that H3G does not inconvenience customers with abandoned/silent calls or recorded messages, and we are currently seeking to extend this to those independent mobile retailers which are authorised to sell our services, so that they in turn do not cause annoyance and inconvenience to consumers.

However, H3G has little control over the inconvenience caused to customer by abandoned/silent calls or recorded messages originating from other callers, and we therefore welcome Ofcom's proposals to curb these activities, and to bring regulatory clarity to the issue.

As detailed below, H3G also believes that the consultation must consider calls made by overseas call centres, and the application and enforcement of revised rules in respect of these activities.

Consultation questions

Q1 Do you agree that consumers are concerned by silent calls and that Ofcom is right to take enforcement action against the companies that make them?

H3G welcomes the research undertaken by Ofcom to determine the level of abandoned calls received by consumers and the assessment of the impact that each of the options would have in reducing inconvenience to customers. Anecdotal

evidence accumulated by H3G suggests that there is a pressing need for greater clarity on the rules governing the use of automated calling equipment, and additionally, the application of these rules to calls made from overseas. Given the increased use of overseas call centres it is important that OFCOM consider the operational and territorial application of any revised rules on these activities, together with the impact on consumers where an international CLI is presented.

Q2 Do you agree with Ofcom's proposed approach to taking enforcement action, guided by a sense of administrative priority?

We support Ofcom in its belief that regulatory intervention should be guided by the extent of actual consumer harm. We would not, for example, support regulatory intervention where there was no proof of harm or offence, and where intervention would be not be proportionate. We also support the notion that the scale of the misuse should be taken into consideration when determining whether enforcement action was required, however this formula should also be adaptable enough to ensure that persistent calls to a limited number of people would still be regarded as sufficiently serious to warrant regulatory intervention.

We believe that regulatory intervention should be designed in the first instance to encourage compliance, and that enforcement action should be taken only in cases of persistent non-compliance.

Q3 Do you agree that the range of procedures proposed in the statement will be effective in reducing the degree of anxiety, annoyance and inconvenience caused by silent calls?

H3G supports the procedures outlined in the statement, but is concerned that an instruction to remedy the misuse and not repeat it needs to take into account that the same company may be behind a range of different subject calls. For example, it might be perfectly possible for Company A to be notified to cease 'free holiday' calls but continue to call offering the chance to win a car.

H3G would not like to see a duplication of regulation should these new procedures be implemented. The consultation paper gives the example of a consumer being tricked into making a premium rate call as a result of silent/abandoned call or recorded message and being entitled to pursue its case with Ofcom. However, remedy for such a case will in most instances, lie with the premium rate regulator ICSTIS, and Ofcom will need to be clear when a complaint is a matter for ICTIS and when it is a matter for Ofcom.

It should made clear that calling parties may not use a presentation CLI which returns calls to a premium rate number (and in accordance with previous guidance issued by OFCOM¹). It may be appropriate for OFCOM to revise and reissue guidance in respect of CLI and which more clearly and robustly addresses the concerns that are the subject of this consultation.

¹ See 'Code of Practice for Network Operators in Relation to Customer Line identification Display Services and Other Related Services (June 1998) and 'A Consumer's Guide to Calling Line Identification' (June 1998)

H3G also believes that OFCOM should review more fully the use of allocated number ranges. We would, for example, like to see a discussion on the allocation of number ranges giving consideration to the use of randomly generated telephone numbers from allocated number ranges.

Q4 Are there any additional procedures which call centres could adopt to reduce the degree of anxiety, annoyance and inconvenience caused by silent calls?

H3G is of the opinion that OFCOM should adopt a Code of Practice on the use of Automated Calling Equipment, and that an organisation's procedures should follow any such Code of Practice.