



Information Commissioner's Office

## Operation LINDEN

Virtual meeting hosted by the ICO: 18 October 2021, 10am-12pm, MS Teams

*Any information or statistics herein were correct as of the date of this meeting.*

### Attendees

Kerry Smith (CHAIR)	Information Commissioner's Office (ICO)
David Clancy	Information Commissioner's Office (ICO)
Stephen Flack	Information Commissioner's Office (ICO)
Emma Iandolo	Information Commissioner's Office (ICO)
Caroline Fishbourne	Information Commissioner's Office (ICO)
Carl Parmenter	Information Commissioner's Office (ICO)
Michelle Crowshaw	Information Commissioner's Office (ICO)
Victoria Feltham	Charity Commission (CC)
Arthur Cummings	Data & Marketing Association (DMA/TPS)
Barbara Kubis-Labiak	Financial Conduct Authority (FCA)
Catherine Orr	Fundraising Regulator (FR)
Representative	Gambling Commission (GC)
Jonathan Duffy	Insurance Fraud Bureau (IFB)
Julie Corney	Market Research Society (MRS)
Drew Cooke	National Trading Standards Intelligence
Richard Clarke	National Trading Standards Scams Team
Amanda Viriri	The Office of Communications (OFCOM)
Tayyba Mahmood	The Office of Communications (OFCOM)
Mark Littler	The Pensions Regulator (TPR)
Representative	The Pensions Regulator (TPR)
Representative	Phone-paid Services Authority (PSA)
Representative	Phone-paid Services Authority (PSA)
Ceri Lloyd	Solicitor's Regulation Authority (SRA)
Steve Smith	TrueCall
Laura Hammond	Wales Trading Standards
Stephanie Borthwick	Which?

### Apologies

Dianne Doodnath	UK Finance
Paul Sweeney	The Pensions Regulator (TPR)

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### Agenda

- **Introductions** - for those who have not previously attended. (All)
- **ICO updates** – including an update on the introduction of the new Information Commissioner, a wrap up of reporting; focusing on a review and update of the first half of the financial year, recovery actions and what we have planned.
- **Activity and actions updates** - 5-minute update on relevant activity from each organisation, as well as proposed actions for the next quarter. (All)
- **Joint Opportunities** – An update from the ICO on Operations FARIN, TINAGO and TORC.
- **Horizon Scanning** – discussion. (All)
- **International enforcement** – update led by the ICO.
- **AOB** - including any intelligence requirements, comms strategy developments for the ICO, minutes and next meeting arrangements.

### ICO enforcement update

#### Operational overview (year to date 2021-22)

Kerry Smith

- 14 compliance meetings.
- Seven organisations put on monitoring in order for them to take steps to improve their compliance.
- 98 cases subject to current investigation with potential for formal enforcement action.

#### Financial Recovery Unit

Kerry Smith

- 43 PECR cases where 21 Civil Monetary Penalties have been issued (YTD) for serious PECR breaches. This includes those subject to Appeal.
- 18 Monetary Penalty Notices (MPN) totalling £1,758,000 and 11 Enforcement Notices issued.
- Of the 18 MPNs, 11 have been paid in full, one is being paid via a payment plan, three have been appealed, two are subject to recovery and the deadline for one has not yet passed.

#### Current / future focus

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- The ICO continue to investigate complaints relating to white goods insurance, pensions & investments and energy saving.

### **Nuisance contact trends**

Emma Iandolo

- In the first two quarters of the FY 21-22, the ICO received 64,599 nuisance call and SMS complaints to our online reporting tool (OLRT). This is an increase of 19,176 complaints or 42% since the same point last FY. This is not very surprising given that the early months of the last financial year were heavily impacted by the first national lockdown of the pandemic. Despite this, total annual figures were higher in FY 20-21 than FY 19-20.
- Complaint volumes have been somewhat steadily decreasing across the course of the current year, reaching a low of 6,561 complaints in September 2021. This is actually the smallest number of complaints submitted to the OLRT since May 2020, one of the months most affected by the pandemic. Given the apparent deviation to reporting in the last quarter, it is anticipated that we may see a stabilisation in these lower figures, or even further decreases, over the next quarter.
- Across the first two quarters of the FY, the breakdown of complaints between different contact types remains very similar to what we have seen in previous years. Each contact type has seen a considerable increase from the complaints volumes at this point last year, with live calls seeing a 69% increase in reporting since this time last year, likely due to its generally stable reporting figures.
- In terms of the total increase seen, much of this has been seen within the automated call category and relates to suspected fraudulent messaging. The complaints are often seen within the banking, broadband and 'none of the above' topic categories.
- Complaints relating to fraudulent messaging have also been commonly seen within the SMS category, likely one of the main causes of the increased reporting for this contact type. Another likely cause of the increased number of SMS complaints is COVID-19, most specifically the vaccine rollout, which relied heavily on SMS contact.
- Within other complaint topics, the most notable change since the last FY year is the drop in accident claims calls which was historically our largest topic category outside of the 'none of the above' topic. This has seen a continual drop over the past two years, with Accident claims representing 18% of complaints in

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2020-21. So far this year, it makes up just 4% of all categorised complaints. We also continue to see a large number of complaints within the energy saving category and have related operations ongoing.

- Going forward we anticipate an increase in nuisance complaints as COVID-19 restrictions continue to ease and businesses return to normal or hybrid ways of working, as well as complaints monopolising on financial impact and consequences of COVID-19.
- We also anticipate that energy related complaints will continue to increase as environmental and financial issues regarding energy remain at the fore of public interest and opinion, as well as within government plans and announcements.

## Activity and Actions Update

### **Data & Marketing Association (DMA)**

Arthur Cummings

- The DMA advised that the complaint volumes are going down, the calls are being made, but looking at the statistics, 45% of them are being automated and not reported to TPS because they are not within remit.
- Accident claims are still representing a high proportion of the complaints received by the DMA/TPS, followed by complaints about currency trading/crypto, and scams.
- The DMA suggested that volumes of complaints are declining due to the lack of media reporting about nuisance calls. Historically, where there has been media coverage about the matter, this has led to a significant increase in complaints.

### **TrueCall**

Steve Smith

- TrueCall noted some research work being carried out regarding a phone number range in the Brighton area. TrueCall found out that one company selling white goods warranty was using a different group of phone numbers for each day, calling over 10 months defeating a lot of call blocking systems.
- This would also dilute the number of complaints across several different numbers and a result would be less likely to be noticed. Over 10 months, the company made twice as many calls than the

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top nuisance caller in the country (but none of the individual numbers used were in the top 50 so they successfully evaded attention). Therefore, TrueCall suggests it is always worth checking number ranges to see if there are commonalities.

### **Fundraising Regulator (FR)**

Catherine Orr

- Between September 2020 and August 2021, 1,034 complaints were received which represents a significant increase. However, more than half of these complaints were outside the Fundraising Regulator's remit which often resulted in signposting to Action Fraud or the ICO.
- A lot of the issues relate to digital fundraising which is explained by the pandemic and lockdowns (less face to face fundraising). There are very few complaints about phone fundraising.
- The Fundraising Regulator is reviewing their strategy, how they regulate and working on being more proactive particularly in relation to fraud. Charity Fraud awareness week is currently ongoing.

### **Which?**

Stephanie Borthwick

- Which? is engaging with banks and technology companies on remote access software scams.
- Which? is investigating technology solutions to tackle smishing and is engaging with relevant technology companies and communications providers.
- Which? published a SMS Best Practice Guide for businesses in September to help businesses improve their SMS communications so consumers can differentiate legitimate businesses messaging from fraudulent texts.
- Which? has launched a campaign: 'Make Tech Giants Take Responsibility'.

### **Horizon Scanning**

- Trading Standards raised that for older demographics, there's been targeting around home alarms/emergency call systems. They have been working with industry bodies on this matter. Some companies previously linked to bogus call blocking have moved to this, and are charging large amounts of money for these services.

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- TrueCall offered to share their data as they can filter vulnerability into different types. If other attendees are interested in looking at specific numbers, TrueCall could carry out analysis to see if the calls are targeting vulnerable people.
- The issue of the COVID Pass SMS scam was also raised as members continue to see complaints regarding this issue.

### International enforcement update

#### **Unsolicited Communications Enforcement Network (UCENet)**

Emma Iandolo

- In 2019 the Executive Committee<sup>1</sup> agreed priorities for the network for the next three years. At the annual meeting in Montreal in October 2019, leads were identified for each of the following priority areas, Intelligence & cooperation, Communications & engagement and Training & development.
- The Executive Committee have routinely followed up via teleconference to develop work plans and to decide next steps. This has included discussions on the approaches taken by UCENet members to the COVID-19 pandemic as well as wider trends observed in relation to unsolicited communications and scams.
- Within the UCENet Executive Committee, the ICO is currently leading on the planning and preparations for a proposed UCENet virtual conference later in the year. The ICO has issued surveys to UCENet members and received responses about the proposed themes and planning.
- The intelligence working group call took place on 6 October 2021, at which the ICO presented to international colleagues on its Direct Marketing Monthly Threat Assessment. The working group is chaired by Australian and Canadian colleagues and attended by individuals from global anti-spam agencies. In addition to the presentation, each of the agencies exchanged information and provided updates of themes and trends they are seeing in their respective jurisdictions.
- The next UCENet Executive Committee call is scheduled 19 October. LINDEN participants are welcome to contact the ICO for further information should they wish to participate in any of the UCENet working groups.

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<sup>1</sup> US FTC, UK ICO, Canadian CRTC, Australian ACMA, Korean KISA and New Zealand DIA.

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- More widely, the ICO continue to engage bilaterally with a number of international authorities on specific investigations.

### **Any other business (AOB)**

- Next meeting proposed for February 2022.
- ICO thanked participants for attending and contributing to the meeting.

**END**

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