

dti

**DOORSTEP SELLING AND COLD
CALLING**

Statistical Summary of
Responses to the Public
Consultation

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We champion UK business at home and abroad. We invest heavily in world-class science and technology. We protect the rights of working people and consumers. And we stand up for fair and open markets in the UK, Europe and the world.

Statistical Summary of Responses to the Public Consultation on Doorstep Selling and Cold Calling

This document sets out a summary of responses to the public consultation on doorstep selling and cold calling. The consultation arose following a super-complaint from Citizens Advice and recommendations arising from an Office of Fair Trading (OFT) market study. We intend to consult further on the detail of specific options before making a full response to the consultation

Background

In September 2002 Citizens Advice made a super-complaint to the Office of Fair Trading (OFT). Citizens Advice highlighted what they saw as the main problems in doorstep selling transactions:

- lack of awareness about consumer rights;
- consumers being misled and subjected to high pressure sales techniques;
- cancellation rights and cooling off periods being limited to certain types of doorstep sales which can confuse consumers;
- cancellation rights being ignored by salespersons; and
- the goods sold to consumers being unsuitable for their needs or do not meet their requirements.

The OFT accepted the super-complaint and launched a market study in November 2002. The OFT study examined the selling practice in detail and published a formal response in May 2004. The OFT put forward seven options for consideration and recommended that the Government conduct a full public consultation. The OFT recommended:

1. Extending to solicited visits the cooling-off period and cancellation rights which currently apply to unsolicited visits by traders.
2. Removing or amending regulation 7(2)(iv) of the Doorstep Selling Regulations 1987, which enables a trader to recover costs of fitting or installing goods if a contract is cancelled, so that this protection for traders applies only in cases where a customer asks for work to commence as soon as possible and is aware of the effect on cancellation rights.
3. Prohibition on goods being delivered or work being carried out under a contract before the seven day cooling-off period has elapsed in the case of unsolicited visits.

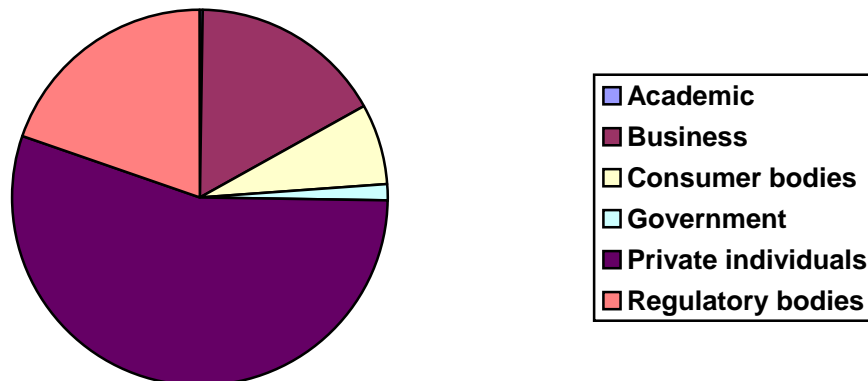
4. Prohibition on money being paid or taken before the seven day cooling-off period has elapsed.
5. A ban on cold calling to offer property services with possible necessary exceptions.
6. Requiring cancellation notices to be more prominently and clearly displayed in the contract, providing a clear indication of the circumstances in which cancellation rights may be lost.
7. Firms trading via doorstep selling to provide consumers with greater transparency on prices for their products and demonstrating greater willingness to provide written quotes.

The proposals sought to address a number of areas where consumers suffer detriment from doorstep selling techniques. The overall objective was to find ways to address the core problems with doorstep selling and cold calling, not to simply alleviate the symptoms.

In the consultation document it was accepted that doorstep selling or cold calling had a criminal element which went beyond the scope of the original Directive and the Consumer Protection (Cancellation of Contracts Concluded Away from Business Premises) Regulations 1987. Detailed views of enforcement agencies (including the Police and Trading Standards Service) were also sought as part of the consultation process.

Responses to the Consultation

We received 2866 responses to the consultation from the following groups: Academics 1; Business 49; Consumer bodies 20; Government 4; Private Individuals 161; Private Individuals responding to coupons and websites 2573; and Regulatory bodies 58. Not all people who responded necessarily answered or gave an opinion on each and every proposal.



Although the consultation did not propose a total ban on doorstep cold calling 224 respondents referred only to a total ban, of these 3 respondents were opposed to a total ban.

2734 of responses were received from private individuals, 94% (2573) of these were generated directly from newspaper campaigns and websites, which raised only single issues.

The following table sets out a summary of all responses received:

Option	1	2	3	4	5	6	7
Those in Support	343	71	71	74	2579	365	333
Those in Opposition	7	18	19	16	82	7	10

Solicited and Unsolicited Visits

One of the most common concerns raised in the response was a clearer definition of 'solicited' and unsolicited visits. There was a good deal of confusion over when a visit was considered solicited. For instance, a consumer responds to a posted leaflet, which they return to the trader after ticking one of two boxes - 'Would you like further information' or 'Would you like a visit from sales representative'. The former is seen as asking for a brochure whilst the latter is requesting a (solicited) visit.

If a sales representative makes a telephone call asking whether the consumer would like a visit from a sales representative who is in the area, when the consumer only ticked the 'further information' box the resulting visit would still be considered unsolicited under the regulations. Businesses should ensure that promotional material is clear and make sure that tick box option are not ambiguous.

In their market study report the OFT described solicited and unsolicited visits as:

Solicited: where the consumer actively initiates the visit by the salesperson e.g. by specifically requesting a visit in response to an advert or mailshot; and

Unsolicited: where the visit does not take place at the express request of the consumer e.g. where a salesperson makes a cold call.

They further describe an unsolicited visit as:

- A visit by a trader which takes place without the express request of the consumer. This includes subsequent visits which followed from an earlier unsolicited visit.
- A requested visit will be 'unsolicited' if the trader introduces 'new' goods or services during the visit.
- A visit agreed by the customer subsequent to an unsolicited telephone call from the trader.

Unfair Commercial Practices Directive

When the consultation document was published in July 2004 it was not known which areas of doorstep selling and cold calling the Unfair Commercial Practices (UCP) Directive would be able to tackle. The Directive has evolved considerably over the past two years and its scope has widened sufficiently to have significant impact on doorstep selling.

The UCP Directive has now completed formal negotiations at the EU level. It is currently being transposed into UK law and should enter into force around December 2007.

The proposed Directive has two main objectives: it introduces safety net EU consumer protection legislation requiring traders not to treat consumers unfairly (a “general duty” not to trade unfairly); and it harmonises existing national rules to encourage more cross border sales. The effect of the “general duty” should be to fill gaps in existing legislation; and set standards against which new practices will be judged. This is new to the UK: unlike many EU states, we do not have a general duty. DTI research comparing the consumer protection regimes of 10 OECD countries [OECD Benchmarking Study October 2003 <http://www.dti.gov.uk/ccp/topics1/pdf1/benchmain.pdf>] identified a correlation between countries with a strong consumer protection regime and the use of a general duty. The Government therefore believes that implementation of the Directive will make an important contribution towards achieving our PSA target of having a consumer protection regime that is amongst the best in the world by 2008.

Maximum harmonisation

The UCP introduces a high common level of consumer protection for all Member States. Unusually, and unlike existing EU consumer protection directives, the UCP does not contain a “minimum clause” which allows Member States to adopt or retain provisions that provide greater protection for consumers on matters within the scope of the Directive. This is in order to ensure that the consumer protection laws in all Member States achieve the harmonisation necessary to give full effect to its market opening potential. The UCP will thus apply full harmonisation to all laws on business-to-consumer commercial practices, subject to certain important exemptions (such as financial services). This means that any statutory or regulatory requirement falling within the coordinated field and its maximum harmonisation provisions must neither fall short of nor exceed the requirements of the UCP. Transposition of the UCP will therefore require all such national legislation to be brought into line with the Directive.

Scope & Structure

The scope of the Directive is unfair business-to-consumer commercial practices, before during and after a commercial transaction. Amongst other things, the intention is to prohibit all unfair acts, representations, and courses of conduct including unfair selling techniques such as high pressure selling.

The Directive is structured in the following way:

- It contains a general clause that prohibits all unfair commercial practices. This is the “general duty” referred to above. Simplifying somewhat, an unfair commercial practice is defined as practice that is contrary to the requirements of professional diligence; and materially distorts or is likely to materially distort the economic behaviour of consumers. This is judged by the standards of the “average consumer”, though under certain circumstances, the benchmark is adjusted to the standards of vulnerable consumers.
- The vast majority of commercial practices which would be defined as unfair under the general prohibition fall under two categories: these are ‘misleading’ and ‘aggressive’ practices. To achieve greater legal certainty the UCP sets out in greater detail ways in which commercial practices could be misleading (by action or omission) or aggressive. Aggressive commercial practices are defined as practices that by harassment, coercion or undue influence significantly impair or are likely to significantly impair the average (or on occasion vulnerable) consumers freedom of choice or conduct and thereby cause or are likely to cause them to take a transactional decision that he would not have taken otherwise.
- Finally, the Directive also contains a short “blacklist” of misleading and aggressive practices which will be unfair, and therefore prohibited, in all circumstances. These practices include: ‘bait and switch’ tactics, falsely claiming to be a signatory to a code of conduct; and creating the impression that the consumer cannot leave the premises until a contract is formed.

Enforcement

The UCP Directive requires Member States to enable enforcement authorities to apply to the courts for orders (equivalent to injunctions) to stop unfair commercial practices. In the UK breach of an injunction may be contempt of court punishable by fines and/or a term of imprisonment not exceeding 2 years.

In addition, the UCP Directive allows Member States to retain or introduce criminal offences in relation to unfair commercial practices. One of the issues that will need to be considered when transposing the Directive will therefore be whether the specific provision on aggressive practices should be punishable as a matter of criminal law.

The Directive also allows for the possibility of individual enforcement of its provisions. In the UK, some civil remedies are already largely available to consumers in much of the field covered by “aggressive practices”. Thus, civil remedies – especially the ability to set aside a contract; recover monies paid; and claim damages – are already available to consumers under the UK common law doctrines of “duress” and “undue influence”. However, the UCP

definition of “aggressive practices” may well go wider than the common law doctrines of duress and undue influence; and the doctrines themselves are subject to change. There may therefore be some merit in setting out more clearly what civil remedies are available, in the interests of legal certainty and making it easier for consumers to understand their rights.

In summary, the UCP Directive will:

- Directly attack high-pressure sales techniques – the root cause of the problems identified in the OFT market study;
- Provide consumers with the information necessary for them to make appropriate buying decisions;
- Bite on deliberately misleading information or selling practices – another issue identified by the OFT.

Sanctions have yet to be set but it is possible that serious breaches will carry criminal penalties;

DTI Consumer Strategy

The DTI Consumer Strategy was also developed while we were carrying out our consultation on Doorstep selling. Full details of the Strategy have been published and can be found on the DTI website http://www.dti.gov.uk/ccp/topics1/consumer_strategy.htm

The Strategy encourages better enforcement practices and provides additional support to consumers. It also aims to make the necessary information available to consumers so that they can be more responsible for their own buying decisions.

A number of Strategy initiatives are directly relevant to doorstep selling:

- We will be piloting regional Trading Standards Scambuster teams who will target doorstep selling rogues, as well as other scams;
- We will also encourage joint working between the Trading Standards Service and other enforcers, including the police;
- The provisions identified by the Hampton Report will also improve the consistency of enforcement in this area;
- The OFT market study suggested that it was sometimes difficult to give evidence in civil court cases – this issue will be considered as a part of the DTI’s Consumer Strategy;
- We will complete the Consumer Direct roll-out. This will both support consumers and provide intelligence to enforcement officers.

The Consumer Strategy and Unfair Commercial Practices Directive have significant impact on the problems identified by the OFT market study. These proposals will be factored in to the policy making process and will influence the final Government Response.

Option 1: *Extending to solicited visits the cooling-off period and cancellation rights which currently apply to unsolicited visits by traders.*

Under the Doorstep Selling Regulations consumers have up to seven days in which to cancel contracts agreed following an unsolicited (uninvited) visit. However where a contract is agreed following a solicited (consumer initiated) visit, the consumer has no legal right to a seven day cooling off period. The original Directive and resulting Regulations were based on the assumption that consumers are better prepared for solicited visits (e.g. by comparing prices or by ensuring that they are not alone). However, the OFT report and others conclude that consumers who solicit home visits may still not be fully prepared for them or the resulting contract and are still susceptible to high pressured the sales tactics.

The following table summarises views put forward in the consultation:

	Support	Oppose
Business (49)	20	6
Consumer Bodies (20)	14	-
Government (4)	1	1
Private Individuals (161)	22	-
Private Individuals who responded to coupons, websites (2573)	244	-
Regulatory Bodies (58)	42	-
Overall	343	7

Stakeholders made the following broad comments:

Concern:

- Incentive for traders to make MORE unsolicited visits as consumer rights would be similar.
- Consumers not aware of difference between solicited and unsolicited visits.

Positive Effects:

- Reduce the point of high pressured selling
- Simplify the position and make education easier
- Non-legislative measures would be ineffective
- Make advice to consumers and enforcement clearer – to ascertain whether a visit was solicited or not
- Consumer able to consider the purchase without the salesperson there

Negative Effect:

- Create pressure to sign cancellation waivers

- No protection against pressure selling
- Unlikely to impact on serious offenders as most rogue traders cold call
- There would be an increase in unsolicited visits as the advantage to traders in seeking a solicited visit would be lost!

Additional Comments:

- Cancellation should be available via telephone and email
- Raise £35 exemption limit
- More awareness of legislation is needed
- Extend the cooling off period

Susan Marks, Citizens Advice: “Treating solicited and unsolicited visits in the same way empowers consumers to consider the purchase without the sales person being present. There may, however, be an increase in the proportion of unsolicited visits made, as the advantage to traders in seeking a solicited visit will be lost.”

It was the view of Staffordshire County Council Consumer Service that “Currently most consumers do not understand the difference between solicited and unsolicited [visits] and therefore do not know their rights. One set of rules would provide greater clarity and uniformity.”

St. Helen’s Trading Standards felt that ...”overall, there was an existing lack of awareness by consumers as to what rights they have when contracting from home.”

The Association of Chief of Policy Officers (ACPO) felt that “It is the view of the police service that a range of measures are required to protect consumers from both criminals and those who employ high pressure sales tactics to exploit those who are vulnerable within society and in isolation this change would have limited impact. Whilst the consumer may in some circumstances have initiated the original call to the trader or service provider, it is felt that in some cases the tactics employed to encourage consumers to agree to an instant sale without having the opportunity to consider the options available, appear to disadvantage the consumer.”

Option 2: *Amending regulation 7(2)(iv) of the Doorstep Selling Regulations 1987, which enables a trader to recover costs of fitting or installing goods if a contract is cancelled, so that this protection for traders applies only in cases where a customer asks for work to commence as soon as possible and is aware of the effect on cancellation rights.*

Currently the Regulations require that where a consumer cancels a contract within seven days, they are under a duty to pay for the goods which had become incorporated in the land (i.e. fitted or installed) and for the provision of services in connection with the supply of goods before the cancellation.

This provision can operate as a loophole by which an unscrupulous trader can undermine a consumer’s cancellation rights by starting work within the seven day cooling off period, effectively locking the consumer into paying for any goods incorporated into their land and the related services.

	Support	Oppose
Business (49)	18	11
Consumer Bodies (20)	8	1
Government (4)	1	0
Private Individuals (161)	8	3
Private Individuals who responded to coupons, websites (2573)		
Regulatory Bodies (58)	36	3
Overall	71	18

Stakeholders made the following comments in the consultation:

Concern:

- Although originally designed to protect traders from unscrupulous consumers who receive goods and associated services but then cancel the contract within 7 days, unscrupulous traders often start such work within the cancellation period making at least some payment by consumers inevitable
- The circumstances in which customers would waive cancellation rights
- Pressure would be put on vulnerable consumers to sign waivers
- Documentation would become more confusing
- If work is undertaken within seven days and then summarily stopped by consumer with no compensation to trader

Positive Effect:

- Stop rogue traders starting work within the seven day cooling off period in order to pressurise vulnerable consumers into paying

Negative Effect:

- Vulnerable people could be bullied into signing away their rights to cancel
- The proposal to allow consumers to confirm the loss of their rights would create a contradiction within the Regulations; it does not seem to follow the consumer protection intentions of the legislation
- Legitimate businesses have genuine concern for the interests of their consumers, but reducing trader's rights through further regulation would be unfair and is unlikely to have effective results
- If introduced this could have an effect on small legitimate businesses if work is undertaken and could then be stopped, without any compensating right to recover the costs of the work carried out

Additional Comments:

- No need if best way forward is to prohibit any work being done, goods delivered or money changing hands before cooling off period has expired (Options 3 & 4)
- If work is to be carried out under exemption, a clear statement of acknowledgement of the effect on consumers' cancellation rights should be set out in the contract
- Abuse of this provision is more on the trader than the consumer side
- Codes of practice have not always worked well in the past and is difficult to monitor and not legally binding
- In practice current legislation has not been as effective as it could have been as consumers are unaware of or confused by them; making further changes risks repeating this
- Any amendments must result in a simpler regime
- If a consumer allows workmen who make an unsolicited approach to resurface their driveway with the hot tarmac they just happen to have in the back of the lorry, take payment and then drive off, never to be seen again, this needs to be dealt with via consumer awareness as no legislation will prevent this type of activity
- It would be unreasonable for a consumer to ask for installation or repair work to be carried out immediately at their specific request and then to expect to be able to change their minds and exercise a right to cancel

The CBI said that "The Regulations must achieve a balance of rights and responsibilities on the part of consumers as well as businesses."

The Hearing Aid Council were of the opinion that "the consumer needs to be made aware of potential cancellation charges and what these are for."

Telewest Broadband and Flextech TV said that "Legitimate traders need to be protected against bearing unreasonable costs through late contract cancellation. Customers often demand or are happy to accept early provision of services, particularly with telecoms services, and providers of such need

protection against unreasonable customer behaviour. Inherent in this is the requirement for the suppliers involved to provide to consumers adequate and clear customer information about the services in question, cancellation rights, and the terms and conditions under which they are being provided”

Mr A.S. said “...this raises very strong questions about consent. A person suffering from dementia could be coerced into signing a consent form without understanding the implications. A legitimate trader would have to be aware of the rules would have to take the extra week’s delay as part of the business. It is unlikely to cause businesses to fold...I do not see how it would be possible to distinguish between a legitimate trader delivering early and a bogus trader exploiting a loophole.”

Option 3: *Prohibition on goods being delivered or work being carried out under a contract before the seven-day cooling-off period has elapsed in the case of unsolicited visits.*

In practice Regulation 7(2)(iv) could mean that the cancellation rights provided by the Regulations may fail to offer the intended protection if the consumer is rushed into the commencement of work within seven days of agreeing a contract and incurring the cost of goods incorporated into the land and the connected provision of services. Consumers may not be aware of the effect of work starting before the end of the seven-day cooling off period.

	Support	Oppose
Business (49)	12	17
Consumer Bodies (20)	10	-
Government (4)	1	1
Private Individuals (161)	12	-
Private Individuals who responded to coupons, websites (2573)	-	-
Regulatory Bodies (58)	36	1
Overall	71	19

Stakeholders made the following comments in the consultation:

Concern:

- Once work has begun the process of getting back to square one is far more difficult
- If there is a real urgency for the work to be done
- Intimidatory tactics being used ‘to persuade’ consumers to waive rights
- Enforcement agencies having to prove that consumer had not given permission for work to begin/was not aware of waiving rights
- Level of deception and possible theft requiring more rigorous combating
- ‘user friendly’ simplification of legislation also required

Positive Effect:

- Would protect vulnerable consumers, not just those who are vulnerable due to age or disability but also those vulnerable due to their lack of knowledge about how much a product should cost
- Easier for parties to get back to their pre-contract position
- Would assist in the delivery of the consumer protection objectives of credit legislation
- Consumers would have time to review the options and make a choice
- Traders who employ sharp selling practices to get business would be affected and this would be positive for consumers

Negative Effect:

- This would not impact on the activities of bogus traders, the impact would fall on legitimate traders
- This proposal would put direct selling businesses at a disadvantage
- There would need to be a number of exemptions; which could then be exploited by rogue traders
- Where there is no written contract rogue traders could claim that they agreed the contract a week earlier and have now come round to perform it – a passing conversation may be claimed to be the point of contact
- As bogus traders operate outside the law any change to legislation makes very little difference

Additional Comments:

- The prohibition should apply to both solicited and unsolicited visits
- Grey area of what is a solicited or unsolicited visit
- There should be an option for waiver, which if not signed the contract should not be enforceable
- Additional consumer legislation will be of limited use to consumers who are ignorant of their rights

The Finance Leasing Association felt that “Effective enforcement is the only way to deal with bogus traders. Essentially, for the most vulnerable what is required is the provision of some mechanism of intervention. If the sale had been ‘high pressure’ and unsolicited preventing work from being carried where a cooling off period is in place would prima facie appear to be the only way to deal with it. Amendment to Regulation 7(2)(iv) would be much less effective as it is reactive to the problem once it has already occurred and open to abuse by consumers.”

Thomas Sanderson Ltd. felt that “As bogus traders operate outside the law - any change to legislation makes very little difference. It’s only through enforcement and stiff penalties that there is likely to be any impact.”

The Direct Selling Association commented that in France, where a similar proposal has been adopted, “law abiding direct selling companies and members of the French DSA, have had their businesses decimated.”

Option 4: *Prohibition on money being paid or taken before the seven day cooling-off period has elapsed.*

This would address a number of potential sources of consumer detriment:

- The potential Regulation 7(2)(iv) loophole already described
- Cases where consumers are persuaded by cold callers to accept substandard and/or overpriced goods or services (e.g. property repair or maintenance work)
- On the spot payment or deposit, often in cash, for goods or services that are then not delivered or performed to below standard

	Support	Oppose
Business (49)	11	15
Consumer Bodies (20)	11	-
Government (4)	1	1
Private Individuals (161)	15	-
Private Individuals who responded to coupons, websites (2573)		
Regulatory Bodies (58)	36	-
Overall	74	16

Stakeholders made the following comments in the consultation:

Concern:

- Consumers are paying bogus traders before having the opportunity to consider the expense or compare prices
- Bogus traders pressurise vulnerable older consumers to pay in cash and have been known to take them to their banks/building societies so that they can make withdrawals
- Need for time to consider purchasing decision away from salesperson
- If decision to cancel is taken reimbursing of deposit should not be difficult and protracted
- Impact would depend on sanctions for non-compliance
- Success of sanctions relies too heavily on non legislative measures (i.e. consumers knowing their rights)

Positive Effect:

- The opportunity to consider the purchase away from the sales person and feel confident to shop around
- Some companies demand very high deposits once consumers agree to enter into a contract which consumers often find difficult to get reimbursed
- It would deter bogus traders from taking money from consumers without the intention of delivering goods and services

Negative Effect:

- This could cause greater pressurised sales techniques from bogus traders, wanting the consumer to say they want the goods asap so as to get a discount
- This could result in fewer legitimate traders remaining in business

Additional Comments:

- Deposits are often very difficult to get back and consumers can be subject to persuasion to reconsider a cancellation
- This option sits well with Option 3
- There should be an additional protection for consumers – right to a refund where a payment has been taken before end of cancellation period
- Credit providers would need to adjust their instructions on deposit taking
- Stopping payments during the cancellation period is crucial

Respondents were concerned at the issue of bogus traders targeting and exploiting older and vulnerable consumers, extracting money, and then fleeing. The responses by businesses reflected how rogue or bogus traders cast a shadow over legitimate traders.

Thomas Sanderson Ltd... “this is to a great extent a problem with rogue traders. A total ban on taking cash before the end of the cooling-off period is unlikely to deter bogus traders from demanding cash.”

The Finance Leasing Association felt that “as the DTI seems to recognise a bogus trader is always going to demand money on his first visit. It is incorrect to simply suggest a whole range of restrictions on legitimate traders without a clear case and evidence they will impact on bogus traders. It is wholly unreasonable and extraordinary for a statutory ban on the ability of legitimate traders, acting on good faith from being paid, or a deposit taken for their work.”

Help the Aged felt that there was “no reason at all why a legitimate company should not be able to collect payment in the way that the vast majority of companies do – i.e. invoicing for payment and requiring that payment is made within 30 days etc.”

Herefordshire County Council said “intimidation is often used to get the money. Rarely is there cancellation rights given, and never a proper name and address for the trader. The issue of cancellation rights is irrelevant really since the traders will do the work immediately or the next day and get their money straight after the job. Even where the trader can be found a court case for not giving cancellation rights is impractical since the witness is usually about 80 years old and would not stand up to cross examination-and would not be willing to attend court anyway. The so called traders are all experienced criminals and identification is usually impossible.”

Option 5: *A ban on cold calling to offer property services with possible necessary exceptions.*

Doorstep cold callers offering property services fall into three categories:

- **Legitimate traders** who follow the Regulations and provide written quotes;
- **Rogue traders** who operate around the Regulations, producing poor quality work and charging over-inflated prices; and
- **Bogus callers** who have no intention of providing goods or services but use cold calling as a cover for certain types of crime, such as distraction burglary or extracting money by intimidation. This last example is fraudulent activity and carries criminal sanctions.

This reflects the OFT and other report evidence that victims are probably targeted because of their vulnerability, the result often being considerable distress and financial loss. Banning a legitimate way of conducting business to deal with the wider issue of bogus traders is seen as going too far.

Respondents to consultation	Support	Oppose
Academics (1)	-	1
Business (49)	13	15
Consumer Bodies (20)	12	2
Government (4)	2	1
Private Individuals (161)	104	-
Private Individuals who responded to coupons, websites (2573)	2395	63
Regulatory Bodies (58)	53	-
Overall	2579	82

Stakeholders made the following comments in the consultation:

Concern:

- Calls offering property repairs cause the most consumer detriment
- Concern by consumers about being unexpectedly confronted by aggressive and intimidatory bogus traders
- Concern that bogus traders appear to be becoming more ruthless and organised in their tactics
- Consumers unaware of their legal rights as regards ‘solicited’ and ‘unsolicited’ visits and unaware as to what constitutes a solicited visit
- Consumers vulnerability aggravated by ignorance with some traders using deceptive tactics

Positive Effect:

- Vulnerable consumers would know when they would be within their rights to call the police having received an unsolicited call

Negative Effect:

- Exceptions will cause confusion and serve to provide bogus traders with a loophole
- Bogus traders will amend their practices to avoid the ban
- Difficult to define Property Services
- Cold calling regarding other goods and services would not be an offence
- This may vary from one area to another and bogus traders would target those areas least able to resource the enforcement required to make a ban work
- To single out property repairs industry for special treatment would probably mean the perpetrators would simply switch to another product or industry
- It would be prudent not to adopt any proposals until after the UCP is agreed

Additional Comments:

- Such measures should not prevent the business of legitimate traders
- Not convinced that the Doorstep Selling Regulations can provide the necessary consumer protection
- These issues are currently being discussed through OFT's international team; these cases share the common deception element
- Trading Standards officers need powers of arrest
- Organisations such as fuel providers, who also provide central heating servicing, should not be allowed to conduct both sales at the same time
- Services such as window cleaning would be excluded because of the £35 exemption
- Any ban would have to be an arrestable offence
- Resource implications
- Consumer protection offices should be notified of the breach and added to a publicly available list
- Rural communities with only one or two local property companies may rely on these to point out emergency repairs that need doing
- Adopting robust Codes of Practice, consumer awareness campaigns and better communication at local and regional level may best serve consumer interest
- The prime concern about doorstep selling and cold calling are about bogus traders, as opposed to the large number of legitimate and law abiding companies who follow good practice
- The exemptions required would be so extensive as to render this unworkable

The Direct Selling Association remarked that "It is unfortunate that the proposed solution to the problem of bogus traders is so closely linked, in this consultation, to the marketing methods and terms of sale offered by genuine businesses. The former are conducting fraudulent activities which should, more properly, be dealt with under separate legislation..."

The reason for this proposed and selective ban...is that the police believe a ban would be the easiest means of driving itinerant rogue traders off the streets and reducing the risk of distraction burglaries...”

The Bowater Group noted “rogue traders are already operating outside the law and an additional law may not stop them. Also they often work by using intimidatory tactics and insisting that the works required are urgent. It could not be underestimated what effect on legitimate businesses, jobs, Government finances etc. such a ban would have.... (*should cold calling be treated as a criminal act.?*) No..This would criminalise legitimate businesses.”

Cheshire Constabulary (ACPO) replied “...I have consulted extensively with my colleagues in the police service and can confirm that there is generally widespread support, for legislation that restricts the activities of traders who cold call on householders offering property repair services. The Police are often called to investigate cases where work is either carried out to inferior standards or payment is obtained and no work is undertaken. There are also cases where grossly inflated costs are claimed by the property repairers and intimidation is used to make the householder pay. Legislation that bans cold calling will greatly reduce the opportunities for rogue traders and will protect householders from their activities.

Business believe ban would be a disproportionate response

The CBI believes that this proposal would be a disproportionate response in terms of tackling the problem of bogus traders, saying “ The proposed ban is not sufficiently well defined or targeted: there is no definition of what would be included in the term “property services”. Such uncertainty and potential confusion is totally unreasonable particularly when a ban would be backed by criminal sanctions...”

The CBI were of the view that “It would have a serious and damaging effect on legitimate doorstep sales. The DTI says in its Consultation Document that it believes the OFT’s estimate of legitimate doorstep sales of £2.4b annually is an underestimation. CBI members support the DTI’s assertion. This is a very significant market and closing it off would be a serious step which we do not believe is justified, particularly when the OFT admits a 70% customer satisfaction record.

A ban would have a significant impact on legitimate business, employment and consumer choice. Cold calling has a legitimate place in the provision of goods and services and is a cost effective alternative to other methods of distribution and advertising. The OFT admits that it provides a useful service, particularly to the housebound...Services offered locally such as plumbing, gardening, window cleaning and other similar property services are often initiated as a result of a cold call and to ban them would deprive consumers of a valuable service.”

They felt that not enough evidence had been provided to justify a ban and that concerns could be more adequately addressed “through more effective

enforcement of existing legislation including more specific targeting of bogus traders, greater consumer education and non-legislative routes through codes of practice.”

Option 6: *Requiring cancellation notices to be more prominently and clearly displayed in the contract, providing a clear indication of the circumstances in which cancellation rights may be lost.*

At present the Regulations state that, when providing notice of the right to cancel a contract, *'the information should be easily legible and if incorporated in the contract or other document it shall be afforded no less prominence than that given to other information in the document apart from the heading of the document and the names of parties or any inserted handwriting.'*

Previous research highlighted that many consumers are unaware of their cancellation rights, do not remember being informed of them or only remember being informed verbally. The cancellation rights themselves were also seen as being confusing.

Respondents to consultation	Support	Oppose
Business (49)	18	6
Consumer Bodies (20)	12	-
Government (4)	1	-
Private Individuals (161)	48	-
Private Individuals who responded to coupons, websites (2573)	244	-
Regulatory Bodies (58)	42	1
Overall	365	7

Stakeholders made the following comments in the consultation:

Concern:

- Consumers are not aware of their cancellation rights, do not understand them and are unaware of when they may lose them
- many consumers are unaware or confused about their cancellation rights
- safeguards are needed for vulnerable consumers who feel unable to pursue their rights

Positive Effect:

- Hopefully stop unscrupulous traders preying on vulnerable people

Additional Comments:

- Consumers are unaware of or confused about their cancellation rights
- This should not be a substitute for legislative action, as not all older people feel able physically or mentally to pursue their rights
- Legislation should require that the cancellation rights should be in a larger font than the rest of the contract
- Normal business practice is to update contracts as legislation, prices or products change anyway
- Cancellation rights across consumer legislation should provide a 14 day cooling off period

- Consumers should be informed of their cancellation rights both verbally and in writing
- The existing regulations clearly specify the information that must be provided to consumers in writing, including cancellation rights
- Whilst codes of practice can add to consumers rights they are not able to provide across the board consumer protection

Scottish Southern Electric were of the view that “the existing provisions contained within the regulations are comprehensive and (if complied with) sufficient to ensure that customers are made aware of and clearly understand their cancellation rights. Indeed, the existing regulations clearly specify the information that must be provided to customers by notice in writing and include a cancellation form.”

E.ON felt that “The greatest benefit of cancellation notices is in alerting consumers at the time of sale to their cancellation rights, but it is possible that some consumers give up an intention to cancel when they cannot readily find the relevant statement of rights, or process, when reading their contract. “

Cattles plc commented “We do not necessarily believe consumers would be more likely to invoke cancellation rights if pre contract information gave instances in which the cancellation rights may be lost. In these circumstances we feel consumers would be less likely to enter into contracts. We do not think there would be an increase in consumers trying to cancel, but making consumers more aware of their rights would mean that in those instances where consumers have tried to cancel and failed (through misbelief in their right to cancel), or had to pay installation costs, these cases would now be successful. As with any information contained within a contract, the consumer cannot be forced to read or understand it, even if the information is clearly and legibly presented”

The DSA felt that “DSA members recognise that this disclosure is a promotional benefit and not a liability. The view of responsible direct selling businesses is that if goods and services are properly sold, then the small proportion of orders that may be cancelled is a realistic business risk.”

Staffordshire County Council were of the view that “the impact upon legitimate traders would be minimal. Whilst increased consumer awareness and visibility of cancellation terms and conditions may lead to an increase in cancelled contracts, this is likely to occur only in cases whereby a consumer has been pressurised into signing a contract for goods or services they did not require. Legitimate traders that conduct business in an open and honest manner and make clear a consumer’s rights (many of which currently do so) will not be negatively affected. However, we fear the impact upon the most serious rogue traders will be negligible..”

Option 7: *Firms trading via doorstep selling to provide consumers with greater transparency on prices for their products and demonstrate greater willingness to provide written quotes.*

Price marking regulations already apply to shops, mail order and internet sales but not automatically to doorstep sales in high value sectors.

If traders provide the consumer with a written price list prior to the visit *or* prior to any work being carried out this would help ensure that consumers are in a better position to compare the prices of suppliers and shop around before making their choices.

Research by the Office of Fair Trading showed that there is a lack of price transparency and variability in the doorstep selling market, particularly in the case of mobility products and double-glazing. Even where products are bespoke (i.e. made to the customers' specifications) a detailed estimate should still be provided.

Guide prices or unit prices for low, medium and high specification goods (e.g. fitted kitchens) are provided by some retail stores so there is no obvious reason why they could not also be provided by doorstep traders.

	Support	Oppose
Business (49)	16	9
Consumer Bodies (20)	12	1
Government (4)	1	-
Private Individuals (161)	22	-
Private Individuals who responded to coupons, websites (2573)	242	-
Regulatory Bodies (58)	40	-
Overall	333	10

Stakeholders made the following comments in the consultation:

Concern:

- Consumers not given a quote or estimate of price, particularly for bespoke goods
- Consumers are not able to compare prices
- Wide variation in price for similar products
- Consumers do not have easy access to pricing structures so when buying 'one off' expensive items they are unable to make a comparative price assessment
- Pricing information should be supplied before sales visit to avoid vulnerability to point of sale pressure
- Buyers of mobility products sometimes face price differentials of 40%
- Upon cancellation a buyer becomes a 'non customer' and is then liable for high 'service charges'

The Hearing Aid Council said “Price transparency is a big issue for consumers when purchasing hearing aids. Price differentials on buying and having a hearing aid fitted in the UK are enormous and there is an amount of secrecy between dispensers about costs and what the cost covers. The HAC itself is considering the options open to it in helping to improve the transparency of the profession and we would welcome legislative and non legislative guidance on ways to address this issue.”

Age Concern England felt “ The reason that some companies can get away with this practice, which is clearly anti-competitive, is because often the products sold as the result of a home visit are not readily available on the high street. Consumers are therefore not sufficiently aware of the average prices of the product. This is exacerbated by the fact that many high value items sold in the home such as assistive products or double glazing are ‘one off’ purchases. As such a market price is not familiar to the consumer. Who knows for example the precise cost of double glazing a window or putting in a stair lift?”

Stockton on Tees Borough Council had the view that “...This is needed to address the imbalance between the salesman and the consumer. What needs to be stopped is the salesperson deliberately manipulating the situation, withholding basic price information and otherwise representing the price/value in such a way that the consumer cannot make a considered judgement.”

Ms T.C. was of the view that “legislation should be written to ensure clear statement of costs for any work due to be carried out. It should ensure that the price quoted is the price asked; too often bogus traders quote one price and then over-inflate when getting payment. If the Police and Trading Standards work as closely as they do within our area (North Yorkshire), it should be possible to implement any changes to legislation.”

The Direct Selling Association said that “There is already sufficient legislation in place governing price information and misleading ads.”

The CBI supported “provision of greater transparency on prices for products to be supplied by firms trading via doorstep selling. This is likely to increase the confidence of consumers to purchase in the home.... If consumers are encouraged to request written and detailed quotes or detailed price lists for products, it is more likely that they will place their business with legitimate businesses and shun bogus traders.”

Centrica felt that “Transparency in prices is important if customers are to make informed choices.”

Many businesses said that they already followed good business practice and supplied detailed estimates.

Responses to the consultation were received from the following people and organisations. This list excludes respondents who asked for their response to remain confidential and the names of the individuals who responded to local campaigns.

Businesses

0800Handyman Ltd
Advertising Association
Anglian Windows Limited
Bowater Group
British Energy Efficiency Federation
British Plastics Federation
British Retail Consortium
Cattles plc
CBI
Centrica plc
CIGA
Coal Merchants Federation (Great Britain) Ltd / Approved Coal Merchants Scheme
Co-operative Funeral care
Davies & Tate plc
Dignity plc
Direct Selling Association
E.ON
Eaga Partnership Ltd
Energycare Insulations Ltd
Everest Limited
Fascia Mania Limited
Glass and Glazing Federation
Hearing Aid Council
HISTA
Hyndburn Homewise
KHI Limited
Mark Insulations Ltd
MD Churchill's Stairlifts plc
National Association of Funeral Directors
Network VEKA Limited
Powergen Warm Front
Scottish & Southern Energy
Scottish Power
Scottish Southern Electric
Solarwall Ltd
Telewest Broadband & Flextech TV
The Burnden Group
The Newspaper Society
Thomas Sanderson Ltd
Warm Zones Limited

Consumer Bodies

Age Concern England
Age Concern Scotland
Age Concern, Burrow & District
Barnet Care & Repair Agency
Bristol Care & Repair
Citizens Advice
Energywatch
Filey, Eastfield & Rural Neighbourhood Watch Association
Help the Aged London
Lancashire County Council
Middlesbrough Council
National Consumer Federation
North Yorkshire County Council
Older Active People
SCARF - Save Cash and Reduce Fuel
Ty Hafan Children's Hospice
Victim Support & Witness Service in Wigan
Victim Support Lancashire
Wigan MBC

Government

All Party Parliamentary Funerals and Bereavement Group
Cabinet Member for Community Safety Stockton-on Tees Borough Council
Dr. Julian Lewis M.P.
Small Business Service, DTI

Private Individuals

Mrs S French	Guildford
R.W.Huntly	Scarborough North Yorkshire
Mrs Ingrid Morelli	Harrogate
Ken Liff	Arbroath, Scotland
Mrs A Hutchinson	Eggborough nr Goole, Yorkshire
Mr & Mrs A Graham	Scarborough, North Yorkshire
Mrs Sandra Moffat	Carlisle
F Bartlett	Brackenthwaite, Harrogate
John Buckle	Northallerton, North Yorkshire
Alison Watson	Millom, Cumbria
S. Hugh Singleton	Morecambe, Lancashire
Mrs J Fletcher	Yorkshire
J Wardman	Barrow-in-Furness, Cumbria
Mrs K Cook	Saltburn-by-the-Sea
Angela Brooks	Harrogate
Mark Quigley	St Bees, Cumbria
Barry Simpson	[by email]
Richard Evans	[by email]
Beryl and John Hindley	[by email]
Gay Preston	by email]
Victoria Fattorini	[by email]
David Jones	[by email]
Lesley Smith	Torbay
Mrs G H B Heap	Pickering, North Yorkshire
Mrs K Peacock	Thirsk, North Yorkshire
Anne Christie	[by email]
Barbara Corrison	[by email]
Alison Hayes	Leeds
Anthony McNally	Bradford, West Yorkshire
Ian Purvis	Ainsdale, Southport
Eric Stevens	Bedale, North Yorkshire
Patricia Heath	Blackburn, Lancashire
Christine Dutton	Northallerton, North Yorkshire
Cherry Dyson	Knaresborough
David Lawson	[by email]
Tracey Winstanley	Selby, North Yorkshire
F.S.Jackson	[by email]
Kim S Thirkill	Bradford
Sue Johnston	[by email]
Lisa Holdsworth	[by email]
Mrs Maj-Britt Wright	Keighley, West Yorkshire
Noel Laeser	[by email]
Howard Brier	Shepley, Huddersfield
Jenny Traveller	North Yorkshire
E Jackson	Clitheroe, Lancashire

R A Coughill	Accrington, Lancashire
Charis Mastris	Bournemouth
M Holdstock	Catterick Garrison, North Yorkshire
Ms Brooke	Leeds
John Wright	Bingley, West Yorkshire
Mrs Thomas	Wakefield, West Yorkshire
Mr P Willis	Wigton, Cumbria
Ms V Bonner	Hebden Bridge, West Yorkshire
Ms J Manning	Batley, West Yorkshire
Anne Whitham	Haworth, Keighley
Mrs H A Liggat	Bramhope, Leeds
Mr V T Walkey	West Yorkshire
Mrs R E Davies	Pontefract, West Yorkshire
Mrs B Brooks	Elmley, Huddersfield
Mrs M Stockings	Fixby, Huddersfield
Winifred Hirst	Almondbury, Huddersfield
Ms HJ Quinn	Bromsrove
Mr & Mrs G Houston	Weybridge, Surrey
P.H. Gill	Farnham, Surrey
Mrs M Evans	Otley
T. McKaig	Whitehaven, Cumbria
D.M Gardiner	Barrow in Furness, Cumbria
Mrs E Tunton	Appleby, Cumbria
J Graham	Carlisle
Mrs M Bargate	Cockermouth
Mr I G Harrison	Ripon, North Yorkshire
Mrs T Mathews	Carlisle
C Hale	Keswick, Cumbria
Mr & Mrs Twedde	Carlisle
Mr H Berrington	Penrith
J.B. Edwards	Whitehaven, Cumbria
Mr M Thorogood	Grasmere, Cumbria
Mr C Willey	Egremont, Cumbria
Doreen & John Richardson	Penrith
M. Brockbank	Kendal, Cumbria
B. W Garnett	Kendal, Cumbria
R Chappels	Penrith, Cumbria
Mrs A H Wear	Barrow in Furness, Cumbria
Mrs D Chambers	Kendal, Cumbria
Mr I McGregor	Carlisle
Mrs K Kirby	Barrow in Furness, Cumbria
Mrs D Rose	Barrow in Furness, Cumbria
P Walker	Milnthorpe, Cumbria
Annie Maclean	Penicuik
Eric Drake	Grange over Sands, Cumbria
Mrs Wright	Kendal, Cumbria
Peter Nicholson	Durham
Dr Joyce Jordan	Sedgefield

Mrs G Hodge	Durham
Mrs Glenys Harrison	Ripon, North Yorkshire
Mrs M Burton	Ripon, North Yorkshire
Y Martin	Filey
A Leeming	Penrith, Cumbria
Mrs M Grant	Scarborough, North Yorkshire
R Calvert	Blackburn
Angela Jones	Tonypandy
Maria Meek	Rhondda Cynon Taff
E Balshaw	Blackpool
Mrs Ruth McMath	Clitheroe, Lancashire
D Barker	Pickering, Yorkshire
Mrs R Larch	Harrogate, North Yorkshire
J Reader	Lea, Preston
Jill Ulman	[by email]
Hilary Ridley	[by email]
John Wood	[by email]
Colin Gurkin	[by email]
Clare Thompson	[by email]
Mr & Mrs Smith	Preston
Mrs Denise Davies	Harrogate, North Yorkshire
Candy Bamford	[by email]
Graham Johnson	[by email]
Edith Wright	[by email]
Clive Johnston	Arbroath
Clive Heap	[by email]
Tony Wood	Scarborough, North Yorkshire
Andy Saul	Cambridge
Julian Edwards	Preston
Mrs. P. Summerscales	Exeter
Mr and Mrs W E Backshell	Rossal, Fleetwood
Mrs Susan Rayner	Scarborough
W N Rouson	Brampton Appleby, Cumbria
I Morris	Barrow-in-Furness
C E Inman	Norton, Yorkshire
E Wilson	Grafton, York
Mrs J Simpson	Selby, North Yorkshire
John Smith	[by email]
Joanne Taylor	St Philips, Bristol
William Embleton	Northumberland
Peter & Chris Nias	Bradford
Mrs Clare Brook	West Yorkshire
David Holmes	[by email]
Louisa Stevens	[by email]
Audrey & Alan Smith	Carlisle, Cumbria
Christine Clark	Malton, North Yorkshire
Mr B Cobb	Crook, County Durham
David Mackay	Knottingley, West Yorkshire

John Edwards	Pontefract, West Yorkshire
Brian Coughlin	Scarborough, North Yorkshire
Christine Endeacott	[by email]
Derek E. Capes	[by email]
Sarah Donnelly	[by email]
K C Adrian Brook	[by email]
William Smith	Salton, York
Pauline Clark	Blackpool, Lancashire
Bernard and Ann Shields	Fulwood, Preston
Barbara Thomas	[by email]
Ronald and Carol Murray	Appley Bridge, Wigan
Tricia Colling	East Ayton, Yorkshire
Alex Milligan	Bacup, Lancashire
Iris Reider	Leeds, West Yorkshire
Mrs V.M Steel	Farnham, Guildford
Barbara Hobbs	Ilkley, West Yorkshire
Miss O M Smith	Carlisle
Mrs M Chesterton	Durham

Regulatory Bodies

Association of Chief Police Officers
Association of Chief Police Officers Scotland
Birmingham City Council
Bolsover District Crime and Disorder Reduction Partnership
Brougham Parish Council
Burnley Community Safety Partnership
Chorley Community Safety Partnership
Cornwall County Council
Devon Trading Standards Service
Domestic and Distraction Burglary Task Group Poole
Dorset County Council
Dorset County Council
Dumfries and Galloway Constabulary
Dundee City Council
Durham County Council
East of England Trading Standards
Gateshead Council
Halton Borough Council
Hampshire County Council Trading Standards Service
Herefordshire Council
Herefordshire Trading Standards
Islington Trading Standards Service
Knowsley Environmental Health and Consumer Protection
LACORS
Leeds Distraction Burglary Community Initiative
Leicestershire County Council Trading Standards
London Trading Standards Authorities (LoTSA)
MidCOTS
Middlesbrough Council Trading Standards
North Lanarkshire Council Trading Standards Service
North Yorkshire Trading Standards
Northamptonshire Trading Standards Service
Nottingham Trading Standards
Peterborough Distraction Burglary and Rogue Trader Taskforce
SCOTSS - The Society of Chief Officers of Trading Standards in Scotland
SETSA
South Lakeland Crime & Disorder Reduction Partnership
South Yorkshire Trading Standards Services
St. Helens Trading Standards
Staffordshire County Council Consumer Services
Surrey County Council Trading Standards
Thames Valley Trading Standards
Torbay Trading Standards
Trading Standards Bournemouth Borough Council
Trading Standards Herefordshire District Council

Trading Standards Moray Council
Trading Standards Moray Council
Trading Standards Service Loansdean
Trading Standards Wiltshire
Trading Standards, Blaenau Gwent County
Trading Standards, Lancashire
West Cumbria Police
Wokingham District Council

Local Campaigns

Age Concern	Kendal, Cumbria
Age Concern	Whitehaven, Cumbria
Daily Echo	Bournemouth
Mansfield Chad	Nottinghamshire
Miss O M Smith	Carlisle
Nottingham Evening Post	
South East Trading Standards Authorities	
South Lakeland Pensioners Forum	Cumbria
Trading Standards Cumbria County Council	
Yorks Post	Yorkshire

End