



## **Written evidence submitted by the Market Research Society**

### **Submission to the Public Administration and Constitutional Affairs Select Committee Inquiry on Fundraising in the Charitable Sector**

#### **1. Executive Summary**

- 1.1. The Market Research Society (MRS) is the world's largest research association. MRS represents both large businesses and SMEs and we have a range of research suppliers included in our membership. We support best practice by setting and enforcing industry standards.
- 1.2. The body of evidence from regulators and advocacy groups demonstrates the impact of nuisance calls and the distress and inconvenience caused by unsolicited and insistent calls. Poor fundraising techniques by some charities, particularly using the telephone, has a significant detrimental effect on individuals, especially on vulnerable consumers.
- 1.3. Charities need to be ethical in the collection of data for research and compliant with legal obligations under data protection and consumer protection laws. Frugging, which is fundraising under the guise of research, is a questionable fundraising technique used by charities that is of particular concern to the research industry. Poor practice adversely impacts on genuine market research and the ability to ensure that robust evidence continues to be gathered for insight by private, public and not-for profit organisations. Upholding the integrity of telephone research is important in ensuring that researchers can undertake representative research. It is used particularly to interview otherwise hard to reach demographic groups and wherever a high quality random sample is required.
- 1.4. MRS supports the recommendations for change outlined in the Charities (Protection and Social Investment) Bill. MRS is of the view that adherence by fundraisers and charities to existing legal obligations on data protection and consumer protection and compliance with self-regulatory provisions, together with continued regulatory guidance and appropriate enforcement, will be important in ensuring that fundraising techniques used by the sector are ethical. Additionally clarification should be provided that frugging is a misleading practice under the *Consumer Protection from Unfair Trading Regulations 2008* and the practice clearly referenced in guidance issued by enforcement authorities and regulators in this area on breaches of consumer legislation.



## **2. Background: About the Market Research Society (MRS) and the research market**

- 2.1. The Market Research Society (MRS) is the world's largest research association, for everyone with professional equity in market, social and opinion research and in business intelligence, market analysis, customer insight and consultancy. MRS represents both large businesses and SMEs and we have a range of research suppliers included in our membership.
- 2.2. MRS supports best practice in the research industry by setting and enforcing industry standards. The MRS adopted its first self-regulatory Code in 1954 and the latest fully revised version of the MRS Code of Conduct came into effect on 1 September 2014. The Code is designed to support those engaged in market research in maintaining professional standards and to reassure the general public that research is carried out in a professional and ethical manner. MRS individual members and Company Partners must comply with the Code which applies, whether they are engaged in consumer, business to business, social, opinion or any other type of research project. The commitment to uphold the MRS Code of Conduct is supported by the MRS Codeline service and a range of specialist guidelines.
- 2.3. The UK is the second largest research market in the world (second to the US) and the UK research sector is recognised as leading the way in the development of creative and innovative research approaches. According to the Office for National Statistics' (ONS) Annual Business Survey<sup>1</sup> it is estimated that the total UK turnover of the c.3,000 enterprises involved in market research and opinion polling to be £3.6 billion in 2014. Further in 2012, MRS with PWC undertook an assessment of the size and impact of the UK research and evidence market, producing the MRS report *The Business of Evidence*<sup>2</sup>. One of the main findings from this report is the that the UK 'business of evidence' market is substantially larger than previously estimated, employing up to 59,000 people and generating £3billion in annual gross value added (GVA).
- 2.4. Market research, which includes social and opinion research, is the systematic gathering and interpretation of information about individuals or organisations using the statistical and analytical methods and techniques of the applied social sciences to gain insight or support decision making. Research itself does not

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<sup>1</sup> Office of National Statistics (ONS), (2013) Annual Business Survey. Standard Industrial Classification (SIC) 73.2: Market research and opinion polling. <http://www.ons.gov.uk/ons/rel/abs/annual-business-survey/index.html>

<sup>2</sup> See [www.mrs.org.uk/pdf/The\\_Business\\_of\\_Evidence\\_Final\\_08102012.pdf](http://www.mrs.org.uk/pdf/The_Business_of_Evidence_Final_08102012.pdf) for a copy of the full report.



seek to change or influence opinions or behaviour. It plays a key role in helping business to better understand consumers, customers, and to develop appropriate goods and services which are essential for economic efficiency, innovation and progress within the UK economy. Social and opinion research is widely used by government and public bodies to understand citizens' preferences and behaviours, measure impact and assist in developing appropriate policies used, for example, in improving educational, healthcare and police services.

### **3. About this submission**

3.1. MRS is submitting evidence to this inquiry on professional fundraising in the charities sector as we are concerned about the adverse impact of poor and misleading practice on consumers and on the conduct of genuine, legitimate research. We have taken into account the terms of reference and focused on the extent of poor fundraising practices in the sector and the impact on members of the public as well as Government's proposed legislative changes.

3.2. We confirm that no parts of the response are confidential and that the information may be attributed to MRS.

### **4. Extent of poor fundraising practices such as "frugging" and impact on members of the public**

4.1. The charitable sector is diverse, comprised of organisations across a wide range of sectors and income bands. As at September 2014 there were 164,097 charities in the UK, ranging from small voluntary organisations to large charities with budgets over 5 million pounds. Approximately 75% of charities were small concerns with an annual income of up to £100,000.<sup>3</sup> However, within this diverse sector there are legitimate concerns about the use of poor fundraising practices especially where they have detrimental direct and indirect impact on members of the public.

4.2. Although poor fundraising practices exist across postal and online channels, telephone fundraising is of particular concern. A body of evidence shows that nuisance calls are increasing. This is reflected in the significant increase in nuisance calls reported to the Information Commissioner's Office (ICO) and noted in their recent annual report.<sup>4</sup> MRS Standards Department also received numerous

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<sup>3</sup> Charity Commission. Charities by income band. 30 September 2014.

<http://apps.charitycommission.gov.uk/ShowCharity/RegisterOfCharities/SectorData/CharitiesByIncomeBand.aspx>

<sup>4</sup> ICO. <https://ico.org.uk/media/about-the-ico/documents/1431982/annual-report-2014-15.pdf>



contacts about unsolicited calls purported to be for “market research” particularly during 2014.

- 4.3. MRS is aware that businesses (including charities) use the guise of research as a means of generating sales or fundraising. These methods are known to researchers as sugging (selling under the guise of market research) and frugging (fund-raising under the guise of market research). Such practices are unethical and contrary to the MRS Code of Conduct. Some of the calls and emails that we receive relate to the use of lifestyle questionnaires, a form of data collection for use in direct marketing. These type of exercises are confusing to the public, as they use a method of data collection traditionally associated with research (a questionnaire) for another purpose which is not clearly or conspicuously identified (direct marketing).
- 4.4. “Frugging” in particular is an unethical fundraising technique used by some professional fundraisers and charities. In response to increased complaints on sugging and frugging, MRS launched a separate Freephone service, in June 2014, to enable members of the public to report these types of misleading sales practices to MRS, in order that MRS can forward complaints to the ICO. MRS has so far notified ICO about 19 organisations (which included 2 charities) based on the intelligence gathered from the hotline. MRS has also written directly to charities where frugging cases have been brought to our attention and liaised with the Fundraising Standards Board (FRSB) and Direct Marketing Association (DMA) in this area.
- 4.5. Poor and unethical telephone fundraising practices such as frugging have direct and indirect adverse impacts on both consumers and research. Some of these cases can cause significant damage and distress. Additionally, the unethical use of research as a guise for fundraising undermines the legitimacy of genuine market research.
- 4.6. In order for market, social and opinion research to have value for government, businesses and the public it must be representative of the views of all UK citizens. Conducting telephone research is one of the most efficient and cost-effective ways of ensuring a representative sample of the UK population, and is widely used in government research. It is also one of the best methods for researching otherwise hard to reach segments of the UK population, another key target for many public sector research projects. Research with our members indicates that telephone interviewing is used for about 15% of market, social and opinion research projects in the UK. It is used extensively in social research, to interview otherwise hard to reach groups and wherever a high quality random sample is required. It is



imperative that this mode of communication remains open to research and that it not abused or subject to misuse.

## **5. Government's proposed legislative changes**

5.1. MRS notes the proposed *Charities (Protection and Social Investment) Bill* which looks to extend the Charity Commission's powers to protect charities from abuse and make it easier for charities to make social investments.

5.2. We support the additional measures on fundraising now included in the Bill which require all charities to enter into agreements when using professional fundraisers, covering matters such as how the fundraiser will ensure that individuals are protected from unreasonable intrusions into their privacy, unreasonably persistent approaches for donations and from undue pressure to donate; specify how the charity is to monitor compliance with these new duties; and refer to any voluntary fundraising standard or scheme with which the fundraiser is to comply. Measures also require larger charities with income of more than £1 million to include in the annual report the number of fundraising complaints.

5.3. We are of the view that these measures will provide additional transparency to fundraising activities and place clearer obligations on charities and their fundraisers encouraging best practice in the sector.

## **6. Enforcement of existing legal framework on data protection and consumer protection**

6.1. The existing legal framework setting out data protection and consumer protection obligations must also be used to address some of the egregious poor fundraising practices.

6.2. The *Data Protection Act 1998* and the *Privacy and Electronic Communications Regulations* (PECR) contain key provisions that can protect individuals, especially vulnerable people, from being contacted by charities without consent for direct marketing purposes. It is a legal requirement under the PECR for companies or organisations that are making unsolicited calls (cold calling) for sales or marketing purposes to filter those calls against the Telephone Preference Service (TPS) lists. In line with the ICO's enforcement priorities and approach to enforcement, the use of targeted audits and compliance training will be important in ensuring that charities follow appropriate direct marketing guidance. The ICO has recognised the importance of this in additional guidance recently issued on TPS and charities and is likely to incorporate this in their review of Direct Marketing Guidance.

- 6.3. Enforcement of consumer legislation can also provide an important avenue to protect consumers from unsolicited and unwanted calls. The *Consumer Protection from Unfair Trading Regulations 2008* (CPRs) implements the EU Directive on Unfair Commercial Practices and protects consumers from unfair or misleading trading practices, misleading omissions and aggressive sales practices. By suggesting or frugging, businesses use the appearance of conducting research, which is commonly understood not to involve any form of commercial message, to materially distort the economic behaviour of the average consumer to whom it is addressed. Consumers may feel obliged to provide information which is later used for sales leads, or be drawn into purchasing a product or making a contribution as a direct result of the positioning of the commercial communication as a research exercise.
- 6.4. Consequently MRS believes that these practices fall within the scope of the regulations. The essence of suggesting and frugging is that the business claims or creates the impression that they are not acting for purposes relating to their trade or profession, i.e., they are acting in the capacity of researchers not traders.
- 6.5. It is critical that existing legislation is robustly applied and enforced and specific guidance on the treatment of frugging and suggesting under the CPRs would more clearly and directly bring this disreputable fundraising practice under its ambit.

## **7. Strengthening of self-regulation schemes and standards**

- 7.1. The proposed reforms also sit within a self-regulatory framework supported through the self-regulatory codes developed by the Institute of Fundraising and through the work of the independent complaints body, the Fundraising Standards Board (FRSB). MRS believes that proportionate and cost effective changes to the legal framework must work in tandem with, and recognise any effective steps taken to improve, current self-regulatory arrangements.
- 7.2. We note that the current self-regulatory provisions adhered to by responsible and reputable organisations specifically forbid the misrepresentation of sales or marketing as market research. Recent developments have also strengthened the protections in the self-regulatory fundraising regime. Amendments have recently been made to the Fundraising Code to ensure better compliance with PECR in relation to TPS in line with FRSB and ICO recommendations. The amended code now makes it clear that compliance with the TPS is mandatory.
- 7.3. A self-regulatory approach has been effective in direct marketing and market research sectors and in addition to greater direct obligations on the fundraising and



charitable sector, it will also be important for organisations such as MRS and the DMA to continue to work together with FRSB to ensure alignment of codes as appropriate on allowed practices.

For further information or clarification on this submission please contact Dr Michelle Goddard, Director of Policy and Standards, ([michelle.goddard@mrs.org.uk](mailto:michelle.goddard@mrs.org.uk) 020-7566-1882). This submission is made on behalf of The Market Research Society, 15 Northburgh Street, London EC1V 0JR. The Market Research Society is a company limited by guarantee, registered in England No. 518685.

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