27 July 2010

BT'S RESPONSE TO OFCOM'S CONSULTATION:
Tackling abandoned and silent calls

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Introduction and Summary of BT's views

1. We are pleased Ofcom is aiming to provide clarity of the 'Revised statement of policy on the persistent misuse of an electronic communications network or service'. This will help to provide companies with a better understanding of what is required and an opportunity to comply.

2. We take the issue of persistent misuse very seriously and welcome action that will help to prevent it. We support Ofcom's aim to reduce persistent misuse and the harm caused to consumers by it. It is very important to us to make sure our customers are protected from receiving these types of calls. A reduction in silent and abandoned calls will help to make both our Nuisance Calls Bureau and our Nuisance Call Advisory Line teams more effective and efficient.

3. We agree most silent and abandoned calls aren't generated with malicious or mischievous intent. At the same time we accept that these calls will never completely stop and there will be times when customers may receive these types of calls. As a quality telecommunication provider we make every effort to have robust compliance processes in place.

4. We encourage you to share any complaints data you have about our calling activity especially in relation to silent and abandoned calls. This way we can investigate and arrange for corrective action to be put in place if required and avoid any further complaints.

5. It should be noted that due to the shorter than usual consultation period any costs or impact assessments given are best endeavours. A longer consultation period on this subject in future would be preferred so a fuller assessment of any proposals can be made. We are unable to comment fully on what impact these proposals will have if AMD were to be used. As we currently have AMD switched off, costs would be incurred to assess the impact of these proposals, against switching it back on. Additional costs would also be incurred to make sure adequate monitoring and reporting measures are in place.

6. The proposals in this consultation mainly focus on reducing silent and abandoned calls, especially in connection with the use of AMD. There are, of course, many other types of persistent misuse that also need focus, such as automated broadcast messages and fax in error calls. Analysis of our Nuisance Calls Bureau complaints shows that around 40% of nuisance calls (as opposed to malicious calls) are a result of broadcast messages or fax in error calls. Our view is that these types of calls, which we believe do largely originate from UK companies, are causing distress and annoyance to our customers in levels as great, if not greater than silent calls. These types of calls have not been addressed in the consultation. We're also aware from our complaints data that companies who make no attempt to comply with the 'statement' cause annoyance and it's these companies that often go unchallenged, as they cannot be traced as they fail to leave or present a valid CLI. As a result their behaviour continues.

7. It is noted that overseas companies who don't present a CLI will not be affected by these measures. Our NCAL team advise that complaints about silent calls from overseas are increasing and this problem should not be underestimated.

8. You say regulation may tighten if you don't see a continued reduction in complaints caused by silent and abandoned calls. This may be in the form of an outright ban of AMD or a requirement that AMD is 100 percent accurate. Tightening regulation will do little to reduce the amount of persistent misuse (including silent and abandoned calls) caused by those who choose not to comply. It will only increase compliance and efficiency costs of those trying to work compliantly, which ultimately is passed onto the customer. We believe that the interests of consumers will be better served if more focus is placed on complying with regulations, rather than by introducing more regulation per se.

9. Our Nuisance Calls Bureau, set up to deal with malicious calls, is increasingly spending time trying to trace companies that are not complying. We agree the result of customers receiving these types of calls (silent and abandoned) and other types of persistent misuse is often a negative experience. This in turn encourages them to register on TPS. This ultimately   prevents these customers benefiting from being contacted by compliant companies. Even though customers register on TPS this only becomes effective if a company checks their calling lists against it. Persistent misusers are unlikely to. The only people gaining here are the companies causing both nuisance and harm and getting away with it.

10. It is noted that distinguishing between 'marketing' and 'service' calls is not being addressed as there has been no evidence provided to you for you to review your policy regarding the nature of calls. We would like you to review this decision.

11. In certain 'service' scenarios it is very important that many companies can talk to customers regarding their service; an outbound call makes sure it's very timely and can prevent customers being excessively hit by fraud or having their phone service restricted unnecessarily. It can also save the customer a substantial amount of time or inconvenience as well as cost. For example having to navigate IVRs or pay for the call makes it more practical for the customer and minimises any potential queuing. It's appreciated that when AMD is switched on the new 24 hour rule allows more calls to be made the same day as long as the presence of an agent is guaranteed but these types of calls are often time critical (as opposed to marketing calls)and the new rule could impact on resource and incur additional cost.

12. We would like to see an option in the 'Statement of policy' that will allow calls of this nature to be made at least twice within a 24 hour period e.g. AM and PM before guaranteeing the presence of a live agent. This would help to ease any potential operational issues and increase to costs. We would be happy to work with you to provide a clear definition of what a 'service' call should be for the purpose of the persistent misuse policy. Is this an approach you would consider?

13. We also ask you to consider inserting an option in the 'Statement of policy' that would exclude calls made to business customers, (regardless of the number of employees) from the proposed new 24 hour rule. It is our view that due to the larger volumes of calls businesses receive, "silent and abandoned calls" are unlikely to be such a significant issue for them. Compared with more vulnerable consumers they are also less likely to be caused distress (in part because calling to businesses is conducted during normal business hours). Since switching AMD off, our productivity on business to business calls has reduced significantly which has both a direct and opportunity cost. Excluding business to business calls from the proposed new 24 hour rule we believe would strike a better balance between consumer protection and business efficiencies.

14. We are broadly supportive of the proposals. We support the introduction of a 24 hour rule, with the aim of reducing repeated silent calls being made (please note points 12 and 13). However as mentioned above, complaints will still be received until non compliant companies are traced and appropriate action taken.

15. We accept the revised formulae of abandoned calls; however we do ask if it's mandatory for non AMD users to include an estimate of abandoned calls picked up by answer machines. It is also noted, that if required to do so, it may result in more dropped calls. Is this something that should be encouraged?

16. We are pleased to see Ofcom has reinstated the paragraph that says a recorded message needs to be left if for technical reasons an international CLI cannot be displayed. A message providing contact details will help to let the customer know who has called and will help to minimise any harm, annoyance or anxiety.

17. Leaving a 01/02 or 03 number as well as a 080 number is acceptable, however we do have a concern that this will lengthen the message customers will need to listen to. As you are aware from the work on NTS, calls to 0800 from mobiles are not free and there is a danger that this could be abused by the less scrupulous.

18. Our view is the focus needs to be on identifying the companies who are not attempting to comply with the statement. Until action is taken against these companies customers will continue to receive these calls and complain.

19. Do Ofcom have a plan as to how they will focus on identifying these companies so appropriate action can be taken?

Question 1: Do you agree that Ofcom should limit the number of times a company can call an answer machine without guaranteeing the presence of a live operator to once every 24 hours?

A. Broadly yes. We don't have AMD switched on however if we were to start using it again we do not see that the proposed 24 hour rule 'option 3' would prevent us from calling our customers back within the 24 hour period, as long as we guarantee the presence of a live agent. This is what we do to meet the existing 72 hour rule. However we do have concerns that this rule will apply to all calls and these are made in paragraphs 10 and 11. Our answer is based on the understanding that paragraph 1.55 '24 hour policy' of the draft revised policy (2010)' only applies to companies when AMD is in use and seek your confirmation on this point.

Clarity is also required as to what 'guaranteed presence of a live operator' means. We will make every effort to make sure we have the 'presence' of a live operator guaranteed for any repeat call made, but there may be times when a call could be abandoned incorrectly (as a false positive) before getting to an operator. Regardless of what processes or resource is in place it would be impossible to 'guarantee' a repeat call would actually connect to a live operator every time.

Question 2: Do you agree with Ofcom that a two month implementation period (from publication of Ofcom's revised statement) would be an appropriate length of time for industry stakeholders to adopt any changes to comply with the proposed 24 hour policy?

A. Yes, as we are not using AMD. However should we switch it back on, or for those companies already using it, a longer implementation period of four months would in our view be more appropriate.

Question 3: Has Ofcom provided sufficient clarity on how the abandoned call rate is to be calculated?

A. Yes it is clear.

Question 4: Do you agree with the factors set out by Ofcom for determining a reasoned estimate of AMD false positives in an ACS user's abandoned call rate?

A. Broadly yes. We agree that the methods proposed are fair and it would it harder to propose any fairer however we do have concerns that these may prove difficult to achieve and maintain the level of robustness Ofcom has set out. Ofcom's suggestion for AMD users to engage an independent auditor to assess AMD accuracy is noted and something for users to consider. The costs of doing so would need to be factored in. Do you have a list of accredited independent auditors specialising in AMD that you could make available to those wishing to use them?

Question 5: Has Ofcom provided sufficient clarity on how AMD users should calculate an abandoned call rate that includes a reasoned estimate of AMD false positives?

A. Yes

Question 6: Has Ofcom provided sufficient clarity on how non-AMD users should calculate an abandoned call rate that includes an estimate of abandoned calls picked up by answer machines?

A. Yes. However it is unclear as to whether it is a mandatory requirement for non AMD users to include an estimate of abandoned calls picked up by answer machines. It is noted that Ofcom have acknowledged that using this calculation may lead to an increase in the number of dropped calls; is this something to be encouraged? Whilst it may be beneficial to companies as they could drop more calls and remain compliant (within 3% target) we are concerned about the impact this may have on customers and the potential for complaint. Additional costs will be incurred to make sure the correct measurements; monitoring and reporting are in place to calculate the abandoned call rate when AMD isn't in use. To know what these costs are likely to be would incur a further cost. Therefore we are unable to provide any details.

Question 7: Do you agree that Ofcom should not amend the existing two second policy as set out in the 2009 Amendment from 'start of salutation' to 'end of salutation'?

A. Yes. Our view is that starting to play the recorded message at the end of the salutation would create a further delay and is likely to lead to an increase in customer annoyance. The two options provided by Ofcom in the revised statement (2010) should allow companies a choice of when to play the message depending on the technology they use.

Question 8: Do you agree with Ofcom's policy proposal that companies provide a geographic contact number (01, 02 or 03) in addition to a freephone (080) number in the information message provided in the event of an abandoned call?

A. Yes. We agree that all customers should have the opportunity to contact the company who has called them at the least cost to request removal from any calling lists. It is noted that by including an additional geo number in the message it will lengthen the message customers will listen to. As you are aware from the work on NTS calls to 0800 from mobiles are not free and there is a danger that this could be abused by the less scrupulous.

Question 9: Has Ofcom provided sufficient clarity on what constitutes a 'campaign'?

A. No. Our view is that a campaign shouldn't be restricted to one 'single' proposition as often a campaign can involve discussing many different products depending on a customer's requirements. We suggest the definition of a campaign should be 'a single call script to make a proposition to a single target audience.'

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