

CBI response July 2010

CBI response to Ofcom consultation on proposals to tackle abandoned and silent calls

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Introduction

We welcome the opportunity to respond to Ofcom's consultation on proposals to tackle silent and abandoned calls. The CBI has been engaged in constructive debate with Ofcom on its policy for the last 12 months and the dialogue has been extremely valuable.

The CBI fully supports the aim of the regulations, which is to minimise the negative impact which abandoned (including silent) calls have on individuals. Our members remain committed to minimising the number of these calls, as evidenced by a reduction in the number of complaints in recent years.¹ We also concur with Ofcom's analysis that the remaining silent calls made from UK based companies occur as a result of errors made by automated dialling technologies, rather than by any deliberate or malicious act.

The CBI would urge Ofcom to ensure that any changes to the rules are consistent with promoting the UK's international competitiveness, economic growth and job creation. We are especially vigilant for any unintended consequences that could drive jobs or activity offshore.

We would like to emphasise from the outset that our members accept in full Ofcom's proposals for calls made for sales and marketing purposes. Indeed many members share Ofcom's analysis on the use of AMD for sales calls and no longer use these technologies for this purpose. Those that continue to use it for sales comply fully with the existing policy and have no complaint about doing so for these new proposals.

In this response we make the following points:

- We welcome the recognition of the benefits of AMD and share the analysis that an outright ban would be disadvantageous to consumers as well as businesses.

¹TPS report on unwelcome calls 2008 http://www.dma.org.uk/_attachments/resources/4957_S4.pdf

- We agree with the analysis that silent calls are not made with malicious intent. We ask Ofcom to share any complaints data with the companies concerned so that they can investigate and take any necessary action.
- Technological solutions such as Interactive Voice Messaging (IVM) are being developed which hold the potential to eradicate silent calls. We urge Ofcom to be supportive of these innovations.
- We welcome the measured approach that Ofcom has taken in proposing a 24 hour limit on re-dialling numbers identified as answer-phones in each campaign. However, we do have concerns about the impact on time critical service calls and would like a balance to be struck.
- We believe that a two month transition period is not sufficient to comply with these proposals because of the impact that they could have on the staffing of call centres which will take time to resolve.
- We welcome clarification on how to measure the accuracy of AMD. In addition AMD users should be able to remove a reasoned estimate of false negatives. We would like confirmation that this is permitted.
- We have some specific comments on the definition of a campaign and the requirement to display landlines only.

CBI welcomes the recognition of the benefits that AMD delivers for both businesses and consumers. Its members accept in full the proposals with respect to sale and marketing calls.

The CBI is very pleased to see the recognition in the consultation of the benefits generated by AMD with respect to business efficiency and improved products and services for consumers. We have, for example, argued that AMD can be beneficial when it allows companies to contact a large number of customers in a short space of time for reasons such as prevention of banking fraud or product recall. We welcome Ofcom's recognition of these benefits.

We also share Ofcom's analysis that there needs to be a balance between the benefits to business and consumers of AMD use versus the harm caused by silent calls. We believe that this balance will be different in different circumstances.

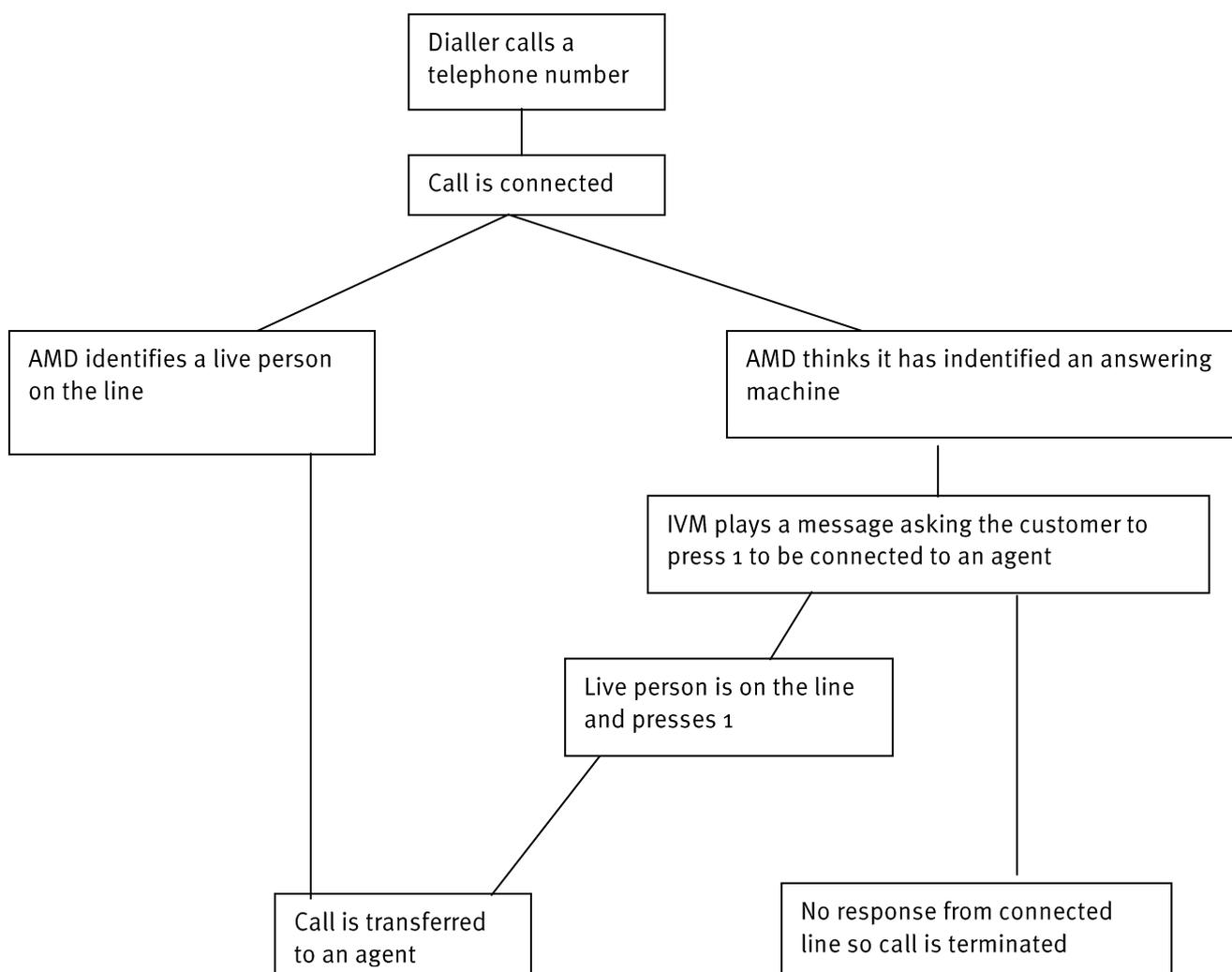
In the case of sales and marketing calls for example, our members accept in full the proposals set out in the consultation. We have consistently argued that these calls are not time sensitive and therefore it is not as important for either the company or the customer to utilise efficiency enhancing technologies like AMD. For time critical service calls (such as fraud prevention) however, we believe that restrictions on the number of times a company can contact a customer could cause consumer detriment in other ways.

Ofcom should be supportive of technological innovations that can eliminate silence

For non-sales calls we remain convinced that there is both a customer benefit to increasing the chance of receiving the call and a business benefit from utilising AMD.

There have been innovations in developing technologies that allow companies to utilise AMD whilst preventing any silent calls from occurring. We urge Ofcom to explicitly recognise and support these innovative approaches in order to give companies the confidence to invest in them.

The particular technology referred to is called IVM. It works by playing a short message when an answering machine is identified asking the caller to press a button to be connected to an agent. In the event that AMD has incorrectly identified a real person as an answering machine, they will have the opportunity to be diverted to a guaranteed agent rather than being cut off. This removes any instances of silent calls as illustrated by the diagram below.



In the event that a live individual is on the line and chooses not to press 1 they will still hear the recorded message and so will not receive a silent call.

Given that this has the potential to completely eliminate silent calls we believe it should be supported by Ofcom. This support should extend to confirming that campaigns utilising this type of IVM are not subject to the 24 hour restriction on dialling as there is never any silence experienced by a customer.

Until Ofcom signals support for this approach businesses will be reluctant to invest in this technology in case future regulations are issued that prevent it being used.

Application of 24 hour restriction to time critical service calls

As many businesses do not yet have sufficient confidence in the future regulatory environment to invest in this technology, there are many circumstances where it is not currently being used. For time critical service calls we are concerned that the 24 restriction on calls within a campaign could impose some negative consequences on both businesses and ultimately end consumers. Policies that seek to remove one type of harm should not result in another, arguably more harmful, impact in another area.

The consultation document refers explicitly to the issue of home deliveries where companies need to call customers several times in a day to arrange a delivery for the next day. The cost of increasing staffing to the level necessary to continue to contact these customers more than once a day with a guaranteed agent is likely to be prohibitive. The ultimate result is that companies will have to stop offering the service and will instead make use of alternative contact mechanisms such as text message which will dictate the time of delivery rather than giving the consumer choice. We believe that the cessation of a valuable service also causes consumer detriment that needs to be considered alongside the aim to reduce detriment caused by silent calls.

More serious however is the potential impact on calls being made for fraud prevention, product recall, and also for debt collection activity where this could impact on consumer debt concerns, collection levels, and therefore on lending to consumers.

Where a customer has gone into arrears and has breached repayment or credit limit terms, there is a very short timescale before the customer's credit rating begins to deteriorate or they are disconnected from a valuable service. Financial service regulations require that when a customer is experiencing financial difficulties companies must make every effort to contact them to try to prevent charges or poor credit ratings. The OFT's rules to prevent "Irresponsible Lending" for example set out the following as failures to comply with its policy:

- Failing to establish and implement clear, effective, and appropriate, policies and procedures for dealing with borrowers whose accounts fall into arrears.
- Failing to treat borrowers in default or arrears difficulties with understanding and due consideration.
- Failing to inform the borrower when he has gone into arrears.

Although Ofcom's proposals do not prevent calls being made where an agent is present, the reality is that many companies will not be able to increase staffing levels to this extent. Not without relocating jobs outside of the UK to countries with a lower unit labour cost.

Figures from some campaigns run by CBI member companies show that around 30% of customers are contacted on a second attempt. If the number of calls is restricted to only one per day, customer contact rates will fall from their present levels with a knock on impact on collection rates. If collective rates fall

business will have to take this into account when making lending decisions and it could ultimately lead to a reduction in consumer credit.

The Ember analysis published alongside the consultation explicitly states that when a debt collection company turned off AMD it led to a “137% reduction in records called, a 36% reduction in right party contacts, a Significant decrease in agent productivity (ratio of time talking to target customers) “without any counterbalancing increase in success percentage” and “overall significant increase in cost per pound collected.” It is also worth noting that this reduction in contacts has an impact on the morale of staff working in the call centre environments.

For other types of calls such as fraud prevention, these proposals could also impact on the ability to contact customers. The number of people contacted on a second attempt represents a significant number of additional people successfully contacted per campaign. It is questionable whether a customer would view a delay in contacting them as reasonable when they could experience potential problems with their account. In these circumstances there is a benefit to the customer as well as the business that needs to be balanced with the imperative to reduce silent calls. Clarity is also required on whether these regulations apply to business to business contacts. Where two businesses have a contractual relationship, it is imperative that they can contact each other promptly in the event of an issue with a product or service.

This is not to suggest that companies should be able to call customers an unlimited number of times. Clearly there is an issue of reasonableness which needs to be taken into account. We would like to suggest an alternative proposal that for time critical service calls companies be able to call numbers identified as answering machines at least twice a day per campaign – perhaps with a minimum requirement on the amount of time between the calls.

We appreciate the need to carefully define which types of calls this could apply to. We would be happy to work with Ofcom on a definition of which calls could be grouped in this separate category. An initial suggestion would be for the following types of calls: product recall; debt recovery; fraud prevention; parcel deliveries; and rearranging agreed appointments (boiler servicing for example). We believe that all of these calls represent instances where there is a benefit to the consumer in receiving a call from the business concerned which needs to be balanced against the potential for silent calls.

This proposal is supported by the complaints data published by Ofcom. Consumers appear to be much more irritated at receiving “cold calls” for marketing purposes rather than calls for other reasons. Research indicates clearly that complaints to TPS are mainly driven by cold calls (58%), not silent or abandoned calls (10%) or fraud calls (2%).²

Much of the analysis surrounding the silent and abandoned calls regulation focuses on sales and marketing environments. We believe that further analysis should be conducted of the impact of reduced AMD use for time critical service calls such as fraud prevention and debt collection.

² Ibid

We believe the staffing implications of the proposals require a compliance period of four months rather than two months

In the consultation Ofcom is proposing a two month compliance period on the basis that the technical requirements of compliance are not difficult. Whilst we would agree with this analysis regarding the technical requirement, there are other significant impacts of the proposals which could take longer to work through.

In particular, there are staffing issues associated with the changes that Ofcom is proposing. The ultimate result of Ofcom's proposals is that companies will be able to make fewer customer contacts per advisor even if some distinction is drawn between sales and service calls. This has two implications:

1. Companies may need to adjust their staffing levels. They may need to recruit a greater number of advisers to maintain existing performance levels. This process will take a minimum of 12 weeks plus additional time for staff training. Alternatively the number of FTEs could fall if the reduced calling rate is absorbed by the business.
2. The number of customer contacts per advisor will reduce which will require alterations to targets of call centre advisers. Where these targets impact on statutory employment rights they will need to be negotiated with staff representatives – the consultation process for this is a minimum of 90 days.

For these two reasons we do not believe that a two month compliance period is appropriate and would instead suggest a period of four months.

We welcome clarification on how to measure the accuracy of AMD

We welcome Ofcom's recognition that there are issues relating to the method for calculating the number of abandoned calls per campaign as set out in its 2008 Revised Statement.

We also welcome the information provided on how to perform a test of AMD accuracy. We have been concerned to date that manufacturers assessments were not accepted nor was it clear what alternative testing Ofcom would accept.

On the whole the information provided by Ofcom is very helpful for industry but we believe there are additional methods of testing which should be explicitly accepted by Ofcom. In particular:

- IVM can help to provide an assessment of the accuracy rates of AMD technology. Using IVM means that when a call is incorrectly identified as an answering machine, the customer has the option to press 1 to be diverted to an agent. Measuring the number of times 1 is pressed will help to give a picture of AMD accuracy.
- We also think that the policy to not accept manufacturers' assessments should be reconsidered.

AMD users should also be able to subtract false negatives from the calculation of abandoned calls

We are also concerned that historically AMD users have not been able to subtract "false negatives" from the abandoned call rate.

The purpose of AMD is to detect answering machines and stop them being transferred to agents. This is presumably why Ofcom considers that it is not appropriate for a reasoned estimate of calls abandoned to answer machines to apply to AMD users.

However, the true scenario is a little more complex. Not all answer machines will be detected accurately and some answering machines will be wrongly classified as live Individuals and be put through to an agent. These are known as false negatives. Some of these false negatives will be abandoned and be reported in the abandoned call percentage, limited to 3%.

Much of the text of the Ofcom consultation recognises this issue. In particular text on page 35 which states that “false negatives are not live calls as they have been picked up by an answer machine rather than a live individual. Therefore for the purposes of calculating the abandoned call rate, false negatives are not live calls and therefore should not be included in the abandoned call rate.” We would like Ofcom to confirm that companies are able to deduct a reasoned estimate of false negatives from the abandoned call rate.

Other specific issues:

- **Definition of a campaign** - In the consultation, Ofcom has defined a campaign as “a single call script to make a single proposition to a single target audience”. Whilst we appreciate what Ofcom is trying to achieve, we believe this definition is too restrictive particularly in relation to the “single proposition element”. Often a campaign from a business perspective can involve cross-selling different products depending on the requirements of the customer. Therefore we think that a definition of a campaign which allows “a single call script used to contact a single target audience for a defined purpose/proposition” would be more appropriate whilst still achieving Ofcom’s aim.
- **Displaying only landline numbers** – the consultation implies that companies are only allowed to display landline numbers through CLI. However, given the relatively cheaper cost of calling mobiles from other mobiles many companies are now using these rather than landlines. According to a strict definition of the rules this would not be allowed. We think this issue requires greater consideration.
- **Sharing complaints data with businesses** - In light of efforts made by our members to reduce abandoned and silent calls we remain concerned that Ofcom has been unwilling to share with companies the complaints data that relates to them. It is not in the interests of businesses to damage their relationship with their customers and so they take any complaints very seriously.

We believe that not sharing this data is counter-productive to the joint aim of reducing customer harm. A spike in complaints about a particular company could indicate that there is a problem occurring with a call centre that the company is not aware of. Once alerted the company is able to act to rectify the problem. We are aware of exactly such an instance when a piece of software malfunctioned leading to a sudden spike in silent calls. As soon as the company was informed the problem was rectified and the silent calls stopped – a good result for all concerned.

More fundamentally we are concerned that Ofcom has shared this data with a third party commissioned to produce part of the consultation report but not shared it with the companies directly affected despite repeated requests. This is particularly unfortunate as the third party has

published references to the companies in a public report without the businesses themselves having seen the data. We strongly urge Ofcom to make it a policy to be transparent and share complaints data with companies in order that they can proactively address problems when they occur.

