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**BY EMAIL ONLY**

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27<sup>th</sup> July 2010

Dear Mr Chapman

**Tackling abandoned and silent calls consultation.**

Introduction

The Direct Marketing Association (UK) Limited (DMA) is Europe's largest trade association in the marketing and communications sector, with approximately 800 corporate members and positioned in the top 5% of UK trade associations by income. The total value of direct marketing to the UK economy is estimated to be £72.5 billion. This comprises three separate figures; £43.3 billion on expenditure on direct marketing media and activities, £16.7 billion on employment and £12.5 billion on overheads resulting from employment (The Value of Direct Marketing 2010 to be published by the DMA). The DMA represents both advertisers, who market their products using direct marketing techniques, and specialist suppliers of direct marketing services to those advertisers - for example, advertising agencies, outsourced contact centres etc. The DMA also administers the Mailing Preference Service, the Telephone Preference Service and the Fax Preference Service. On behalf of its membership, the DMA promotes best practice, through its Direct Marketing Code of Practice, in order to maintain and enhance consumers' trust and confidence in the direct marketing industry. The Direct Marketing Commission is an independent body that monitors industry compliance. Please visit our website [www.dma.org.uk](http://www.dma.org.uk) for further information about us.

The DMA welcomes the opportunity to respond to this consultation by Ofcom on tackling abandoned and silent calls.

**General Comments**

It is stated in the consultation paper at paragraph 2.25 of the consultation paper that "Ofcom believes that AMD technology is





responsible for the majority of repeat silent call complaints that Ofcom receives". Yet the only evidence in the paper for this belief is the analysis of complaints to Ofcom referred to in paragraph 2.22. While we all agree that AMD will cause some silent calls, it is far from proven that they are the only or even the main contributor to repeat silent calls.

Ofcom refer to Mott MacDonald's analysis in paragraph 3.11 that "the majority of companies making silent calls do display a valid, recognisable number (geographic, 080 or 084 number)". It would seem prudent as a next step for Ofcom to investigate this further and follow some of these silent calls back to their source to see what caused them. For example, if there were lots of complaints about silent calls from company X, but company X didn't use AMD then this would suggest that other factors are at work, and that Ofcom should follow different lines of enquiry.

**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?**

Yes, the DMA agrees with Ofcom's proposal. We believe that this should help to reduce the number of multiple silent calls received by answer phones. Currently a call made to a line which is cut off when an answer phone is detected does not normally fall within the definition of an abandoned call. Yet, as Ofcom points out in the consultation paper, this practice can cause just as much annoyance to consumers as a silent call when the phone is answered manually.

The wording in paragraph A1.55 of the consultation paper correctly reflects the wording in paragraph 3.110. However, the wording in the question does not accurately reflect paragraph 3.110.

The 24 hour limit may lead to a particular problem with AMD because an organisation will want to vary the time of day that it calls if it has detected an answering machine. For example, if it calls in the morning and detects an answering machine, it may wish to try and call again the same evening. It would be possible to do this under the revised policy by the organisation using live agents and turning off AMD for these repeat calls. Ofcom should not increase the limit to 2 calls per day as this would risk an individual getting two nuisance calls in a day.

The DMA notes the comments in paragraph 3.78 of the consultation paper stating that debt collection agencies have





argued that customers would be adversely affected by the one AMD call in twenty four hours rule, as failure to contact them and resolve the issue could lead in the escalation of their case to the next collections level. As Ofcom points out in paragraph 3.79, there is nothing to stop such calls being made if the presence of a live agent can be guaranteed. A delay of only 24 hours or 36 hours should not have an impact on consumers, since debt collection agencies should not be calling consumers only 1 day before the case is escalated to the next collection level. The same arguments and counter-arguments can be made for other types of non -urgent customer service calls. The DMA believes that the limit should apply to all types of calls, including non- urgent customer service calls.

**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?**

Yes, the DMA agrees with Ofcom that this is an appropriate length of time.

However, if the implementation of the new policy requires a software change, the time scale is out of the organisation's control as it will be dependent on the dialler manufacturer or software maintenance company to make the necessary change. The organisation may need a similar exemption to the one which Ofcom granted when the 2006 Statement came into force; the organisation must have done all it could to make the software changes, but is not held responsible for issues with the dialler manufacturer or software maintenance company failing to make the changes within the two month implementation period. If Ofcom does grant such an exemption then it should only be valid for a maximum of 6 months.

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

The DMA believes that Ofcom has provided sufficient clarity on how the abandoned call rate is to be calculated. However, there are a number of errors in the example calculations which Ofcom has provided. The DMA would very much like Ofcom to adopt its own clarification document on Calculating Abandoned Calls in





the light of the Ofcom 2008 Statement, which is attached to this response.

**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?**

Yes, we do agree with the factors. However, it is very difficult to determine a reasoned estimate of AMD false positives in an ACS user's abandoned call rates.

The false positive rate needs to be measured as a percentage of live calls and not as a percentage of answering machines detected by the system.

**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?**

No, it hasn't provided sufficient clarity. The false positive rate needs to be measured as a percentage of live calls not as a percentage of answering machines detected by the system.

**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?**

No, in cases where AMD is not used, the explanation and formula Ofcom gives is too complicated and contains some errors. As per the DMA clarification document on Calculating Abandoned Calls in the light of the Ofcom 2008 Statement attached it is necessary to make allowances for answering machines that are wrongly marked down as abandoned calls.

**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'?**

We agree that there is no need for Ofcom to amend the existing two second policy as set out in the 2009 Amendment. The 2009 Amendment and the draft revised 2010 Statement do not refer to "start of salutation". The new draft wording in the 2010 statement at para A1.51 of the consultation paper states that "within two seconds of the call being answered means either i) no later than two seconds after the telephone has been picked up; or ii) no later than two seconds after an individual begins





to speak; whichever is more applicable to the technology deployed".

**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?**

The DMA does not agree with Ofcom's proposal. This will extend the time for the information message to be played and will be of little benefit to either consumer or the industry. The DMA accepts that calls to 0800 numbers from mobiles are unlikely to be free. However, with the ever decreasing costs of making calls from mobile phones, it is unlikely that the cost of calling an 0800 number from a mobile will deter consumers from contacting the company.

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

We believe that Ofcom has provided sufficient clarity.

Please contact the writer of this letter if you have any further queries. The DMA looks forward to receiving a copy of Ofcom's revised statement in due course.

Yours sincerely

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The Direct Marketing Association (UK) Limited

