

Response to the consultation by Ofcom on tackling abandoned and silent calls 1st June 2010

A. Introduction

Steve Smith and John Price, the Directors of trueCall Ltd, have been working in the field of nuisance call control since 1999.

- We devised the Direct Marketing Association's code on the use of predictive diallers in 2001.
- We published the TPS/Brookmead Report in 2005 in association with the Direct Marketing Association and Telephone Preference Service (which was the first research to be carried out into the nuisance call issue in the UK).
- We published a follow up TPS/Brookmead Report in 2008.
- We act as consultants to the Telephone Preference Service and advisors to the Direct Marketing Association on the nuisance call issue.
- We developed, manufacture and sell the trueCall device to help people avoid unwanted telephone calls.

Figures from our TPS/Brookmead research are quoted in both the consultation paper and the Mott McDonald report.

In this response we represent only ourselves, and we are happy for you to publish our response in full as soon as you receive it.

B. General points

We welcome this consultation, and the publication of the two reports that Ofcom commissioned. Both of these reports contain valuable new information that is helping us all to understand better the problem of nuisance telephone calls.

This consultation focuses on Answering Machine Detect technology, but problems associated with nuisance calls are constantly changing, and new issues are emerging all the time. As well as addressing the problem of AMD, this consultation is an opportunity for Ofcom to review all aspects of persistent misuse.

We would like Ofcom to consider the following:-

1. The Ember Study commissioned by Ofcom was very informative. It gives two case studies where sales per contact increased by 33%-35% when AMD was turned off.

If this limited analysis is correct, then it looks like the telemarketing industry has been hoodwinked by the AMD manufacturers who have so dazzled them with promises of productivity increases that nobody has noticed what this has done to their customer relationships.

We raised this issue in the first Brookmead report in 2005. In a survey we conducted 49% of consumers said that when they picked up the phone and heard a delay before someone spoke they either hung up or mentally prepared themselves to handle an unwanted call – hardly the best state to mind to be in to receive a sales pitch.

We hope that by taking the lead and commissioning this research, Ofcom will have encouraged the telemarketing industry to look further into this issue.

2. The consultation document at many points suggests that certain types of service calls may be different from telemarketing calls – in particular, debt collection calls. Our customers tell us the impact that repeated debt collection calls have on their lives. Some of them report that before they installed trueCall they were receiving six calls per day from the same company chasing the same debt. It is our view that some debt collection agencies deliberately use the telephone as a form of harassment.

Many of the debt collection agencies argue that the use of AMD is necessary to meet their legal obligations to make every effort to contact the customer to prevent further charges. This is a very poor argument. It mustn't be forgotten that the arguments for AMD are only economic – nobody has ever tried to argue that the use of AMD in itself delivers a better service. What did these same debt collection agencies do to meet their legal obligations before AMD technology was available?

3. The consultation document makes the assumption that it is an accepted fact that AMD is a major cause of silent calls. We are against the use of AMD technology because of its inaccuracy, and the fact that it does generate silent calls (and we were the first people to raise this issue in the 2005 Brookmead Report), however we would like to see proof that this is the major culprit. If this is not the case then there is the risk that the true source of many of these calls remains unaddressed, and the regulatory changes suggested in this consultation will have no impact on the number of silent calls that the public receives.

The consultation tells us that most silent calls arrive with a caller-ID – this is the smoking gun. It would be relatively easy to trace back these silent calls to their origin and ask the call centre what they think happened in each case. If they had classified these calls as being answering machines, then AMD is the cause, but if they classified the calls as a 'ring, no answer' call then we will have identified another issue. A huge amount could be learned about the nature of silent calls by tracing calls in this way. We believe that the problem can't be solved if it is not properly understood, and Ofcom are the only people with the powers to do this investigation.

4. We are disappointed that Ofcom have not picked up on our concerns about Interactive Voice Messaging systems (systems that deliver a recorded message to the called party – so called 'RoboCalls'). Ofcom relaxed the rules applying to the use of IVM in their last consultation, and based this upon information provided by the IVM industry. We have shown that much of this information was inaccurate, and we were hoping that Ofcom would have amended their position on this accordingly.

The cost of making an IVM call attempt is measured in pennies rather than in tens of pence if the call is made using a traditional call centre with a predictive dialler. This means that IVM has a significant capacity for generating huge numbers of nuisance calls. They are a major problem in the USA, and one IVM manufacturer predicts that if the growth of IVM in the UK matches the growth in the USA, then within the next few years the number of IVM calls made in the UK will increase to 800m a year.

We have made some suggestions about appropriate regulatory controls (including opt-ins, opt-outs, and disclosure), and we urge Ofcom to consider these before the use of this technology gets out of hand in the UK as it has done in the US.

5. There has been some discussion in the industry about combining IVM technology with AMD technology. It is proposed that when the AMD believes that it has contacted an answering machine it plays a message to the answering machine (or the called party if this was a false positive) saying the reason for the call and giving the called party the option to press a button to be connected to an agent. The argument is that AMD false positives would therefore never deliver a silent call.

This proposal ignores the inconvenience that is cause to people by companies leaving unnecessary messages on their answering machines. Consider the following scenario:-

- Depending upon the circumstances 20% - 50% of calls made by a call centre are answered by an answering machine.
- Assume that a call centre using a predictive dialler currently allocates 1% of its allowed 3% abandoned call rate to AMD false positives, and 2% to predictive abandoned calls

In this situation the proposal to use AMD and IVM together would trade off one person being disturbed by a silent call for 20 – 50 people being inconvenienced by an unwanted answering machine message.

6. There has been a suggestion in the industry that some applications where 'the customer receives some benefit from the call' should be treated differently with respect to nuisance calls. Apart from the difficulty of defining which calls fall into this category, we return to the point that this is purely an economic issue. There is nothing to stop companies contacting customers with service call confirmations, product recalls, parcel delivery notifications, etc using a dedicated agent to make these calls and provide these services. If the customer opts in to receiving IVM messages then this can be done without operator intervention. The issue of AMD in this context is a red herring.
7. We are very concerned that some people in the industry are arguing that different telephone applications should be treated differently from a regulatory point of view. We urge Ofcom strongly to resist this. Ofcom has previously said that a silent call is a silent call, and the annoyance and anxiety that this causes the individual receiving it is not lessened because of the intention of the caller. Silent and abandoned calls are not an inevitable consequence of telemarketing and teleservicing activity; they are a consequence of cost cutting at the expense of the customer experience. If companies truly wish to help customers with timely information then there are methods available that do not generate silent calls.

C. Response to specific consultation questions

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?

We welcome this limitation as we believe that it will reduce the number of repeated silent calls made by AMD equipment and directly help those who are most affected by these calls. We are concerned that this may only make a marginal difference as there is no proof that AMD is the prime source of these 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?

This appears to be sufficient, so long as equipment manufacturers provide the necessary software upgrades in time.

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

We are aware that there is some concern about this in the industry. We don't have the technical knowledge to make a judgment, but we feel that it is essential that all parties understand and agree on the calculation method.

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

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?

We are aware that there is some concern about this in the industry. We don't have the technical knowledge to make a judgment, but we feel that it is essential that all parties understand and agree on the calculation method.

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?

We are aware that there is some concern about this in the industry. We don't have the technical knowledge to make a judgment, but we feel that it is essential that all parties understand and agree on the calculation method.

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'?

Yes. We believe that the current two second policy is already too lenient and difficult to monitor, as the 'start of salutation' is a difficult event to define. We would not support any more flexibility in this area.

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?

Yes, but it is messy and long winded for the message to contain two numbers. The real issue is that 0800 calls should be free to mobiles.

0800 was expensive when it was first introduced (probably more expensive than paying for a call from a mobile is now), yet it led to huge economic benefit in the UK powering the growth of the call centre and teleservicing industry in the 80's. The long term economic benefit of opening up 0800 to mobiles dwarfs any 'per call' costs that providers would have to pay to receive these calls. I know that this is not the subject of this consultation, but I think that it is an area that Ofcom should seriously consider as more and more people live in 'mobile only' households.

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

Defining a campaign is an almost impossible task as there will always be a "yes, but ..." argument at the margins. I think Ofcom's definition is workable, and is as good a definition as it is possible to get.