



## **Response to Ofcom Consultation on:**

Statement of Policy on the Persistent Misuse of an Electronic Communications Network or Electronic Communications Service

Response by:

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### **Consultation Questions**

Q1. Do you agree that consumers are concerned by silent calls and that Ofcom is right to take enforcement action against the companies that make them?

Response:

We agree that silent calls are considered a nuisance by consumers, this has been particularly prevalent when reviewing the number of consumers who have chosen to sign up to TPS as a result of silent calls. We believe that Ofcom is right in acting to minimise the impact that silent calls have. However, we

understand that total eradication of silent calls may be an unrealistic aim, but welcome the implementation of realistic and sensible controls. We would suggest that it is probable that the most common offenders in relation to silent calls are likely to be the small to medium sized firms and therefore would hope that any enforcement action take an even handed approach and focus on those firms likely to cause most concern to consumers.

**Q2. Do you agree with Ofcom's proposed approach to taking enforcement action, guided by a sense of administrative priority?**

Response:

We fully support a degree of action, yet are conscious that the industry will continue to be affected by companies 'on' and 'off shore' who will continue to flout any guidelines for commercial gain, and as such seek re-assurance that the appropriate action will be taken without hesitation to all parties who choose to disregard these rules. At the same time we would welcome support from OFCOM as to the interpretation and application of the proposed regulations so that those firms that do intend to minimise consumer concern can meet regulatory expectations.

**Q3. Do you agree that the range of procedures proposed in the statement will be effective in reducing the degree of anxiety, annoyance and inconvenience caused by silent calls?**

Response:

We agree that various procedures will have an effect in reducing customer anxiety, annoyance and inconvenience caused by silent calls, yet Homeserve believe that further clarification is needed on the following key areas:

***5.16 These procedures include ensuring that all of the following conditions apply:***

- ***The abandoned call rate shall be no more than three per cent of 'live' calls on each individual campaign over any 24 hour period***

Homeserve would seek clarification on the terminology used here. In essence if the calculations are based on number of calls not connected to a live agent within 1 second as a percentage of live agent connects, then we feel that a 3% abandon rate may not be achievable by all. Our feeling here is that as most dialling technology uses a 2 second delay prior to abandoning calls (as most are manufactured in the US under the US Do Not Call guidelines of 2 seconds wait prior to abandon), then we believe it more achievable to clarify and regulated at a 2 second delay period. Thus we would recommend producing further clarification on the abandoned delay time.

Additionally, as the terms "abandoned" and "live" calls can be interpreted in several different ways, we would welcome further clarification as to this calculation in the regulations.

- ***In the event of an 'abandoned call', a very brief recorded information message is played within one second of the call being answered, which:***
  - a) Homeserve fundamentally believe that customers are caused significant distress and annoyance as a result of recorded sales messages being marketed to them, and indeed that its these types of call that are the cause of some of the greatest numbers of complaints. As such, we believe that recorded information messages may be treated with as much disdain by consumers as the marketing messages, and hence may actually increase a customers' anxiety. Indeed we also understand that many consumers express concern that answer machines can

become blocked by silent calls. It is probable that any recorded message could exacerbate this concern.

- ***Identifies the company on whose behalf the call was made;***
- ***Identifies the intended purpose of the call (i.e. "an unsolicited sales call", " a call as part of debt recovery" etc)***

b) Homeserve believe that it would be difficult and may be even conflict with current Data Protection guidelines to play a customer a message stating the name of the company that called, and indeed the reason for the call, as it may imply a relationship and the nature of relationship to another household member. It would be helpful if OFCOM could consult with the Information Commissioner and provide guidance as to the proposed acceptable nature of any message to be left.

c) Clarification is also sought in relation to the use of branding on the afore mentioned message. Homeserve work with over 100 associated affinity partners and as such call on behalf of them, thus a generic message mentioning Homeserve may not provide enough clarification for a customer, as to who has called.

What's more, specific branding may be impossible to implement in certain circumstances as many Homeserve calling files include a mixture of customers who are associated to different affinity partners.

It is our belief that the issue may be even more pertinent to outsourcers where technology both of telephony carrier and of automated dialler system may not allow for specific branding to be presented.

- ***Offers the called person the possibility of declining to receive further calls from that company by contacting a non charge (0800) or Special Services basic rate (0845) number;***

d) Homeserve are additionally concerned by the impact of offering customers an opt out option of a recorded message, as many of Homeserve's existing customers will be being called for various service reasons including calling to collect debt, improve customer service through information gathering, follow up or arrange a claim, or clarify whether product documents have been received. Not being able to contact the customer by phone may mean a customer's cover lapsing, or a claim not being resolved. As an insurance company operating in an FSA regulated environment, we believe that we have a duty of care to our customers, and simply allowing them to opt out of all telephone contact may put at risk their essential services.

Homeserve are therefore keen to understand clarification on what can and can not be opted out, and whether only the policy holder with whom contact was attempted may opt out, as we fully expect non policy holders to hear recorded messages offering an opt out. It is likely to cause an extension to existing record keeping systems if a customer were to be able to opt out of certain types of call only which in turn would require expense and development time for providers.

The key element here is whether a customer can opt out of different elements, such as sales calls, and not service calls. In addition, as many companies will contact customers via several different affinity partner brands, Homeserve would recommend that a customer may only opt out on each occasion for a specific brand. I.e. They may wish to opt out of sales calls from their energy supplier, but not necessarily their telecoms supplier (assuming that both brands may be used to contact the customer from one company such as Homeserve)

In light of the comments above Homeserve would support either a non specific message from the company calling being left (so as to allay consumer fears) or simply not leaving a message but ensuring that the customer is guaranteed a manual call back attempt within x hours (preferably less than 72) may be a better service to provide. (The latter would go against the non contact within 72 hour suggested regulation)

- *Either a recorded message of a live operator is available at the CLI number presented to inform the called persons of the identity of the organisation that called them, the intended purpose of the abandoned call and that the called person's number will be deleted from the organisation's database and added to its in-house suppression list at the called person's request if they leave their name and telephone number;*
- e) As per the comments above re: specific messaging, Homeserve would be concerned that a customer is given the ability to opt out of all contact, whereby it may be more appropriate to allow opting out of sales offerings.
- *Any call made by the called person to the contact number provided shall not be used an opportunity to market to that person;*
- f) As above, not allowing a company to market to that customer may be a difficult situation to manage, in that the reason for the call may be identified to the customer as "an offer of a new product", the customer may then request further details of that offer, but the current regulations would preclude that agent from then explaining the details of that offer to the customer, in order that it was not confused as a "marketing" message.

#### **Q4. Are there any additional procedures which call centres should adopt to reduce the degree of anxiety, annoyance and inconvenience caused by silent calls?**

Response:

Homeserve believe that the majority of large UK based firms operating through these systems attempt in most cases to manage the manner in which customers or potential customers are contacted.

It may be, therefore, that the success of any proposed changes to regulation will only be as effective as the extent to which they are enforced against the firms who currently are perhaps the worst offenders. It is understood that OFCOM are largely reliant on complaints and inside information from the industry as indicators of where enforcement may be required and Homeserve would welcome proposals as to how they can work with OFCOM to improve the situation and thereby ensure that the perception of the industry in the market place can be enhanced.