

Ofcom Response

Daviker

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Daviker Background

Daviker Response to Ofcom's "Review Persistent Misuse Powers – Focus on abandon and silent calls"

Daviker have been supplying call centre technology for 10 years, we have in excess of 110 clients ranging in size from 10 seats to 480. They are predominantly outbound into a wide variety of industries including Debt collection, Debt management, Claims and BPO's.

Our support services are 24x7x 365 and include call centre performance reviews for our customers.

Question 1

Q1: We would welcome views and evidence from stakeholders on (a) the main types of harm that consumers experience from nuisance calls in general and specifically in relation to silent and abandoned calls; and (b) how to measure the harm.

You may wish to consider the following points in your response:

- Evidence of changes in the nature and magnitude of the harm since we last reviewed the policy in 2010.*
- Whether the harm differs across landlines and mobiles, consumers or the different types of calls (e.g. the time of day the call is received, whether it is a silent call or a live call).*
- Types of harm other than wasted time and distress.*
- Whether the distress caused by nuisance calls can be quantified and if so how.*
- Evidence of how long it takes consumers to deal with silent and abandoned calls (e.g. X seconds or minutes to answer the phone, deal with the call, take steps to prevent further calls) and how that time should be valued.*
- Views on the relationship between silent and abandoned calls and other call types.*

From general complaints seen, the main areas of concern from clients are as follows:

1. Repeat calls with no way to return the call

Repeat calls from the same number with no way to respond or be removed. For example: Withheld numbers or if a number is presented but when called back there is a dead line or message just stipulating you were called and by whom. Barclays for example play a message when the call is returned saying "you were called today by Barclays, we will contact you again, thank you" then the call hangs up.

2. Silent Calls

Silent calls (we believe this is more harmful than receiving an IVM, an abandoned call message or a Cold Call) this is also linked to point one, because there is no way to stop the call. We are astounded by the level of silent calls you are reporting as within our customer base who adhere to the current regulations; this is something we never experience. This suggests that the contact centres that are

causing these silent calls are simply ignorant to the entire framework of regulations, or simply choose to ignore them.

3. Volume

The number of calls i.e. volume, quite often it is noted that a complaint is made for continuous repeat calls, yet when we thoroughly investigate the ACS, the consumer has only been called once or twice from the call centre that received the complaint. Often the accused contact centre is simply the only one that has presented a CLI and therefore the calls made from withheld numbers are attributed to the wrong business and thus a complaint is made to the call centre who does provide their CLI as required.

It is important here to note that if the *current* guidelines were followed by ALL parties, the reasons for silent calls and the frustration around being able to remove yourself from the calling lists would be eradicated. There seems little point tightening the noose around the necks of compliant call centres as this simply misses the source of your complaints.

Evidence on time taken to deal with silent or abandon calls

Here at Daviker we encourage an automated method of removing consumers numbers from the calling lists, e.g. "you were called today by X as you are nearing the end of your contract, if you wish to discuss an extension please press 1. If you wish to be removed from the calling list, please press 2"

Upon tests the average time to answer the phone (landline) is 20 seconds, mobile phones is lower at 12 seconds. Should the user hear an abandon message it is possible to then have the ability to automatically remove themselves from the calling list by pressing a DTMF digit. The time to deal with such issues is therefore around 30-40 seconds dependant on the number type being called.

The main cause for increased time to resolution occurs from being called by parties that either a) withhold their number, or b) do not give you an easy way to call back or deal with the purpose of the call. E.g. the Barclays example cited earlier. These results in a convoluted process of complaining to the network operator or Ofcom, vastly increasing the harm caused to the consumer.

Once again most of these issues would be simply not be present if the current regulations were followed by all and enforced properly.

Question 2

Q2: We would welcome views and evidence from stakeholders on what are the key drivers of (a) silent calls and (b) abandoned calls.

You may wish to consider the following points in your response:

- Whether the main driver for abandoned calls is the use of ACS or if there are other key drivers.
- Whether you agree with the possible reasons why consumers may receive silent calls and the extent to which they are likely to be a key driver of the overall volume of silent calls as set out in Figure 1.
- Evidence of the key drivers of silent or abandoned calls.
- Aside from mobile coverage, whether there are other issues specific to mobiles that could be causing silent or abandoned calls.
- Any information you have on how long organisations will ring consumers before disconnecting an unanswered calls (e.g. 15 seconds) or how quickly they connect consumers to a live agent (e.g. two seconds).

Key drivers of silent calls

The main drivers of Silent calls are call centres who have absolutely no interest in following the current regulations. Tightening the current regulations will make no difference to these rogue businesses and will simply harm the majority of contact centres who are abiding by the current rules and regulations. If more attention was paid to the rogue contact centres rather than the easy targets who adhere to the rules, you would see a drop in Silent calls.

Other drivers for silent calls

A vast majority of large call centres have disabled AMD and all call centres we deal with have a drop call message active on outbound campaigns. Therefore the *only* way a silent call can be made from a call centre abiding by the current regulations is from user behaviour, such as those laid out in figure 1. The most common example of this is that agents simply hang-up on calls without saying anything, or simply leaving their microphone on mute until the caller hangs up – an agent actioned silent call. This issue appears in call centres especially at break times and end of shifts whereby agents don't want to take any more calls because they are due to finish. If an agent has a bus to catch at 5.15 when the shift finishes at 5.00 and a sale call takes 20 minutes, it is not unusual to find the number of agent dispositioned answer machines increase – an agent initiated silent call as the consumer would experience it.

Many contact centres are finding this agent behaviour elusive to pin down due to Ofcoms stance on AMD. It is very hard to identify and is nearly impossible at sites who have AMD disabled (ironically done because of the false positive regulation). Most agents will disposition the call as an answer machine and with the volume of answer machines the agents now process, the Agent Actioned Silent calls are now a needle in a haystack.

Since the inception of the AMD false positive rate and the take up of disabling AMD this has become a much larger problem because of how hard it is to identify within the contact centre, agent initiated silent calls. This is made worse by the fact the agents are aware of this.

15second ring time

From our considerable experience we would say nearly all of our contact centres operate on a higher ring count than 15s. The variance is generally between mobile and home numbers. On average most voicemails on mobile phones (which is 99% of the time enabled) will activate at around 18 seconds from tests performed, so an increase is generally irrelevant on ring time, it purely means more answer machines. With landlines generally people will try and ring for longer in order to try to get a live person, it generally takes long than 15s to answer a home phone on tests with the average time seen to be 20 seconds, dependent on other factors, such as time of day, demographic (young vs older) etc.

Question 3

Q3: We would welcome views and evidence on the use of AMD including (a) if call centres have changed their use of AMD in recent years and if so why (b) the volume of calls made by call centres with and without the use of AMD (c) false positive rates when using AMD and any data to suggest that the accuracy of AMD has improved in recent years.

Daviker currently have around 110 outbound call centres and since the inception of the false positive rate, the vast majority of large call centres have disabled the use of answer machine detection. The reason for this is the vague regulations on testing procedures for false positive rate, such as: the sample to be used for false positive calculation being stated as “a reasonable amount”. The other reason is the administrative time to perform the test is extraordinary high, having to perform the test at regular intervals. The cost to perform such tests and the possibility of fines associated with the vague regulations have made AMD too much of a compliance and financial risk.

Volume of calls made with and without the use of AMD

I have not looked into this but I could do with further time and provide feedback with evidence.

False positive rates

The technology has not moved on in recent years, so detection levels remain the same. AMD detection is heavily reliant on a clear connection. Degradation in the network due to load in certain areas can have an adverse effect to AMD detection. In order to improve AMD detection significantly, a tone prior to AMD detect would need to be introduced. This is something we and most of the major ACS manufacturers pushed for with Ofcom through the formation of the AMD Networking Party funded by the ACS manufacturers, but progress has been slow and has lacked support.

Question 4

Q4: We would welcome views and evidence on potential changes to the policy to help reduce the harm caused by silent and abandoned calls including those identified in Figure 2 (abandoned call rate and approach to AMD), Figure 3 (time limits for calling consumers and connecting to a live agent) and Figure 4 (good management and appropriate processes).

You may wish to consider the following points in your response:

- Views on whether it would be worth pursuing any of the potential changes identified in Figures 2 to 4 or if there are other potential changes that should be considered, for*

example, to make it clearer and easier for stakeholders to understand and follow or to specifically address calls made to mobile phones.

- Data indicating the likely impact of the potential changes in terms of reducing the harm caused by silent and/or abandoned calls and the potential cost of the change (both one-off and ongoing costs).*

Changes in policy to reduce harm

The main growth area for new contact systems in the UK has been VICIdial (an open source dialler platform) which by default has no AMD and on most sites AMD is not added. We still believe the main increase in silent calls is from ACS users who do not adhere to the current regulations i.e. to have an abandon call message. As already stated the dialling practices across our client base have never been more vigilant than they are today. The fact that a lot of our own call centre's have disabled AMD, yet in your own test there was still a significant amount of silent calls, indicates that business' either have an agent issue or are ignoring the regulations as they currently stand. Making the regulations more stringent will not solve this problem, but only serve to severely impact the compliant section of the industry. Dare we say it, if the enforcement on offending call centre's was carried out more vigilantly, we believe the regulations could actually be relaxed. The issue with most offending call centres is generally the number is withheld making them hard to track down. Yet the compliant call centre's display their number thus making them easy to report and hence bear the brunt.

Dropping the current target abandon rate from 3% to 1% will effectively make outbound dialling in the UK using ACS impossible. The calls will still need to be made and will simply create a growth market for the rogue contact centres to fill. You will create an environment whereby the rules are so ridiculously tight that the fringe contact centres who are currently walking the fine line between compliance and non compliance will simply abandon their attempts at adherence.

Setting a hard fast number of abandon calls is a terrible idea, and one that will only mean shrewd businesses breaking up their larger call centres into smaller call centres – which you are then proposing could now drop more calls. Sticking to the 3% percentage is the only option. Whether one

call centre with 500 staff abandons 100 calls or ten 50 seat call centres abandon 10 calls each the abandons overall is the same.

Agent behaviour should not be ignored, we do feel this is being severely underestimated from my own investigations and it is an area that could be backed up with evidence, The issue as already stated when removing AMD on ACS, it is extremely hard to identify agent initiated silent calls and to continuously monitor on an ongoing basis.

Further clarity on any regulations is always welcome and providing examples of what is “allowed” and not “allowed” again would be of benefit.

The only thing that would reduce the silent calls would be more enforcement of the regulations already in place. Since the silent call regulation came into play it has become more and more severe, yet the complaints have only increased. For us this is evidence in itself that the regulations, however strict are not going to reduce the problem and it is time it was looked at differently. It is the rogue traders that are the issue, rather than what the regulations stipulate. Focus on closing down these rogue contact centres, not driving the legitimate businesses into the ground with further unnecessary regulation.

Question 5

Q5: We would welcome views and evidence on potential changes that could be made to the policy relating to the a) current five general examples of persistent misuse (misuse of automated calling systems; number-scanning; misuse of a CLI facility; misuse for dishonest gain – scams; and misuse of allocated telephone numbers) or b) other examples of persistent misuse.

You may wish to consider the following points in your response:

- Whether the five general examples of persistent misuse remain relevant or if there are any changes or other types of persistent misuse that we should consider.*
- Views on whether there are changes we should consider making to the policy relating to the provision of CLI information (noting the issues we set out in paragraphs 4.8 to 4.15).*
- Views on whether it would be useful to clarify how we might use our persistent misuse powers in relation to calls made during unsociable hours and if so how and why.*
- Views or evidence on the use of and harm caused by (a) localised CLI or multiple CLIs (b) IVM systems being used for outbound dialling where a consumer is kept on hold rather than immediately connected to a live agent.*
- Whether a checklist and/or best practice guide would be useful and, if so, how such documents could be best developed and communicated.*

Further clarification on unsociable hours is a minor problem, none of our clients operate before 8am or past 8 pm, generally down to performance dips outside these hours. Any calls outside of these hours, we would expect are from error or as already stated overseas/rogue traders.

IVM messages

Though we understand the views on IVM, it is also a positive and useful feature which offers benefit to the recipient. Messages to confirm appointments, remind about payment dates to avoid further charges, warnings when you are about to go over usage limits and incur charges are all in the benefit of the recipient.

Being put on hold from IVM message

If a consumer has pressed 1 to speak to an agent we would generally think that if this is from an appropriate information message that the user is interested or is relevant, then they would not mind holding for a finite amount of time. Again on reviewing these systems generally these types of calls take precedence and are usually answered promptly within the call centre.

IVM Problems

The issues with IVM would come from broadcast messages that are used to blanket sweep numbers for the “hope” of a response. A lack of enforcement of the current regulations from IVMs offering to claim back PPI and the likes should be Ofcom’s focus.

CLI Localisation

We currently have no evidence that this is resulting in any harm to an end user as long as you are able to respond to the same number at no additional cost.

Localisation has many benefits to industry users and consumers. A business may have a central call centre, but branch offices. The call centre then calls presenting a local number so should the user call back they will be directed to their local branch automatically. I believe some local government agencies use this exact principle.

CLI spoofing is an issue which we believe causes far more harm than localisation, i.e. a contact centre simply faking a CLI to a random number or that of competitors. CLI localisation is a completely separate service and the two should not be confused.

Again, as with most of these proposals, if these features are used as intended, to current regulations and not abused, there is no issue.

Question 7

Q7: We would welcome information on the current operation of the outbound call centre market, in particular:

- *The size of the current outbound calling market e.g. the annual number of calls made as well as the value.*
- *The size of total annual costs in the outbound market (where possible split by operating costs and capital costs (or depreciation)).*
- *The average costs per call/per agent (or per agent hour).*
- *The split of call centre locations (domestic or overseas) that make calls to UK numbers.*

We will supply further information in due course.

Question 8

Q8: We would welcome any initial views and evidence on the potential costs and benefits of any of the potential changes to the policy. In particular, whether any of the potential changes would:

- *require investment in new technology or other capital costs;*
- *have an impact on efficiency and operating costs;*
- *have an impact on call-centre costs or call-centre prices (to their clients);*
- *affect competition in the call-centre market; and*
- *have a different impact on different types of call centre, and if so, what factors affect the level of impact.*

In our opinion there would be no benefits associated with tightening up the regulations.

Most contact centres that are using ACS responsibly can now change their drop rate settings without further investment.

Efficiency of ACS users will drop substantially which will have a negative impact on the business. With a proposed drop rate of 1% many ACS users will come to the conclusion that it is highly unlikely that they will be able to achieve compliance and therefore either abandon doing outbound themselves, outsource it to a rogue/offshore contact centre or more likely abandon their attempts to remain compliant. Some businesses do not have the choice as to whether or not to make the calls, a significant numbers of UK jobs rely on the outbound calling industry.

Call centre costs will rise, therefore costs to end users of call centre services will also have to increase. In the example of a debt collector you may find that a debtor who now effectively cannot

be contacted by phone to pay the debt will now have to be visited by a bailiff which would be at the Debtors additional cost.

Further regulation of the UK contact centre market will result in more offshoring, more complaints from Consumers and a loss of UK jobs.

Question 9

Q9: We would welcome any views on what factors may influence a call centre's likelihood of adhering to the current or a stricter policy.

Daviker clients are going above and beyond trying to adhere to the regulations which we have seen when conducting our free of charge Compliance Audits. The recent fines imposed have certainly had an effect on the industry, though from your own recent studies this has not reduced the overall issues.

Our question would be, why is that? Over the last 10 years of working in the industry the regulations have got tougher and tougher, yet the complaints have increased. We posed the question at meeting held at Ofcom, where most of the major ACS manufacturers were present. We asked "Are your clients trying harder than ever to adhere to current regulations?" All the other ACS suppliers agreed that their clients had never been more compliant, something that is getting more and more difficult and expensive to do.

The two most recent events that have caused an increase in complaints in our opinion are the rise of the PPI claim and the rise of the open source dialler. The PPI industry is now in decline but the next opportunity is no doubt around the corner. Open source diallers (and hosted diallers) have reduced the cost of entering the market significantly, allowing many smaller call centres to be set up. Open source diallers are not compliant, have no manufacturer responsible for making them compliant and have in our opinion been responsible for a huge level of distress. Responsible Call centres work with responsible manufacturers to operate within the current regulations. Rogue contact centres are not targeted by Ofcom, are not on Ofcom's radar and are using ACS systems and practices that are not compliant.

Further enforcement of the rules already in circulation would be enough to reduce the overall complaints. If you look at the current regulations and assume they are applied and then look at the reasons for the breaches, the numbers and reasons will be low, so the issue is not with the regulations. The best example of this is why are we still talking about Silent calls? There should not be any if the current regulations were being enforced. Why will tightening the regulations make any difference?

We will be requesting responses from some of our clients to question 8. We believe the loss in productivity in certain industry sectors and thus the overall cost would be massive, costing business and jobs. The debt collection industry is reliant on AMD and CLI rotation due to the recipients wanting to avoid the calls on purpose, due to their nature.

BPO's adhere stringently to the regulations and most have AMD off, but they still need to gain productivity over overseas competitors. A change to the regulations would make UK BPO's uncompetitive. Though the responsibility lies with the main party, an outsourced overseas BPO, will most likely breach regulations because it is a) very hard to enforce globally, b) they will amend data to ensure the breaches cannot be proven c) the current regulations aren't enforced in the UK to the extent they should be, so why would they be internationally. We have yet to hear of one overseas contact centre have a fine imposed upon them. The fines imposed in the UK have had effect so maybe this is something that should be done to increase the fear factor which currently does not exist for these operations.

Daviker's opinion is that further regulations will actually lead to less compliance. Businesses that are already walking the fine line between compliance and profitability will be forced to make very tough choices. Instead of compliance being the norm, being non-compliant will become the new norm and therefore the standards we have all been working so hard to achieve for the last decade will be lost. Enforcement of the current regulations, domestically and internationally will have far more impact than any further changes.