

**GENESYS TELECOMMUNICATIONS LABORATORIES, INC.  
RESPONSE TO OFCOM CONSULTATION OF 1 OCTOBER 2014:  
Persistent misuse – silent and abandoned calls**

**a. Overview**

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This document contains the responses of Genesys Telecommunications Laboratories, Inc. (“**Genesys**”) to the public written consultation initiated by Ofcom on 1 October 2014 in relation to its use of its persistent misuse powers, in particular as regards silent and abandoned calls (the “**Consultation**”). Genesys appreciates the opportunity to respond to the Consultation.

Genesys is a leading provider of customer engagement and contact centre solutions. In 2013, it acquired SoundBite Communications, which delivers cloud-based proactive collections, payments, fraud notifications and mobile marketing applications, as well as proactive customer service solutions to enterprises. Genesys believes that its global reach and significant experience in these fields gives it a detailed insight into the outbound contact ecosystem.

**b. Automated calling systems have substantial benefits**

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Automated calling and interactive voice technologies, when used appropriately, are of genuine benefit to companies and contribute significantly to consumer welfare. Businesses adopt these outbound contact technologies to enhance customer service and goodwill and to create efficiencies which can subsequently be passed on to the consumer. Ensuring a positive consumer experience is critical for both Genesys and its customers and smart businesses have absolutely no incentive or desire to annoy, inconvenience or create anxiety for consumers.

The overwhelming majority of calls made by call centres using automated calling and interactive voice technologies are for important and worthwhile purposes, and consumers are better off because of them. Consumers rely on these calls for a variety of everyday purposes, such as:

- notifications of possible fraud associated with their bank or commercial accounts;
- service notifications;
- reminders for payments;
- scheduling deliveries and appointments;
- alerts and reminders for these deliveries and appointments;
- disease management; or
- marketing information to help them make smarter purchases.

Research from London-based consultancy Ovum indicates that 75% of consumers want more proactivity in the communications from the companies they do business with.

Any regulatory barrier that would dissuade businesses from using these useful and economical tools to maintain regular customer communication would limit the flow of information that consumers need, want and expect.

**c. Automated calling systems are, however, open to abuse**

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Nevertheless, not all users of these technologies have consumer benefit and the protection of their brand at the heart of their business model. There are some users who intentionally abuse automated calling technologies, giving rise to excessive silent and abandoned calls. This is detrimental to the consumer for two reasons: firstly, due to the annoyance, inconvenience and anxiety caused and, secondly, as it risks undermining a legitimate and helpful service for consumers and businesses. Therefore, Genesys relies on Ofcom and the Information Commissioner's Office to prevent abuses of these systems and Genesys welcomes Ofcom's desire to ensure that these systems are used appropriately.

**d. Ofcom's approach should strike a balance**

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Genesys urges Ofcom to maintain a framework which effectively prevents these serious, persistent abuses. However, this framework should strike a balance and not eliminate the benefits afforded by the use of automated calling and interactive voice technologies to contact consumers, where such contact is requested or forms part of an existing business relationship. It is in the interest of both businesses and consumers that the use of such technologies for these legitimate purposes is both viable and effective.

1. 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.
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1.1 Ofcom notes in its Consultation that much has changed since 2010, when its general policy on the exercise of its persistent misuse powers (the "**Policy**") was last updated. A key development is the fact that consumers are increasingly accustomed to receiving communications through various channels from the businesses they have a relationship with.

1.2 These multi-channel communications increase the ease and speed with which consumers can interact with the businesses they trust and consumers providing their telephone numbers to these businesses expect to receive these targeted and helpful communications.

1.3 Marketing and sales nuisance calls from companies which have not obtained consumers' consent to contact them or which indiscriminately contact consumers for reasons irrelevant to them and, in particular silent and abandoned calls by these companies, risk giving legitimate uses of automated calling systems a bad name. By annoying, inconveniencing or causing anxiety to consumers, unsolicited silent or abandoned calls might reduce the desire of consumers to receive and businesses to provide these otherwise helpful and cost-efficient services.

2. We would welcome views and evidence from stakeholders on what are the key drivers of (a) silent calls; and (b) abandoned calls.
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- 2.1 As explained above, Genesys considers automated calling systems to be beneficial for both businesses and consumers when used in an appropriate and lawful way. Genesys and its customers are concerned to ensure adequate processes and policies are in place not only to meet Ofcom's Policy, but also to provide a positive consumer experience.
- 2.2 The key driver for abandoned and silent calls is the intentional and systematic non-compliance with Ofcom's Policy by certain companies. For example, the past few years have seen a dramatic increase in unsolicited calls to consumers regarding Payment Protection Insurance claims. Some of these organisations deliberately use automated calling systems to reach consumers without prior consumer consent or any prior commercial relationship with the consumer and without complying with Ofcom's Policy.
- 2.3 A particular area of concern is misuse of the system by companies which are established outside the UK – a solution is required to ensure compliance by these companies.
- 2.4 Genesys believes this increase in intentional disregard of the legal framework is the key cause of abandoned and silent calls and the Policy should be strictly enforced against intentionally infringing companies to avoid bringing the use of automated calling systems into disrepute.

3. 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.

- 3.1 Genesys continuously strives to provide the highest possible accuracy through the use of its technology. It is a matter of preference for Genesys' customers as to whether they use automated calling systems in combination with answer machine detection technology. Those customers that choose to do so are satisfied with the detection rates and accuracy of this technology.

4. 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).

#### **a. Reduction or removal of the 3% abandoned or silent call rate**

- 4.1 Genesys considers that the 3% abandoned or silent call rate set out in the Policy is an appropriate threshold for legality. A lower rate risks imposing unmanageable expenses on legitimate businesses, due to the exceptionally high degree of agent availability it would require, and these costs would ultimately have to be reflected in the price which consumers pay for the services in question. The 3% threshold strikes

the correct balance between ensuring consumers are protected from an excessive number of abandoned or silent calls from companies with which they have had no relationship (such as blanket automated PPI-related calls) and ensuring businesses are able to effectively use automated calling systems to benefit consumers they have an existing relationship with.

- 4.2 Genesys considers that a silent or abandoned call rate of 1% is so low as to be tantamount to a removal of the rate (i.e. a reduction to 0%). Ofcom notes in the Consultation that the removal of the abandoned call rate (i.e. its reduction to 0%) may restrict the use of automated calling systems, as it would require agents to always be present. A removal or reduction to 1% of the abandoned call rate would impose significant costs on businesses wishing to use these technologies for targeted and helpful services which consumers themselves have requested. This would, effectively, make the use of automated calling services prohibitively costly, which would ultimately harm the consumer – either they would no longer be able receive these services, or the substantially increased costs borne by businesses in providing them would be reflected in the price paid by consumers.
- 4.3 As outlined in its response to Question 2, Genesys considers deliberate non-compliance with the Policy to be, by far, the most significant cause of silent and abandoned calls. As such, a reduction of the abandoned or silent call rate, whether it be to 1% or 0%, would impose unmanageable costs on legitimate businesses and would not contribute to addressing the most significant driver of these calls. Rather, it would lead to the perverse scenario that the use of automated calling technologies would be an unviable business model for those businesses that use it to help consumers, but would remain widespread amongst those businesses whose use actually causes harm.
- 4.4 Genesys notes that the above comments apply irrespective of whether answer machine detection technologies are used. Genesys does not consider network based answer machine detection to be a viable solution in the UK at present due to the high costs charged by network operators for network based answer machine detection and the lack of consistent availability across all providers.

**b. Imposing a stricter test for legality for abandoned calls without a message**

- 4.5 Genesys would not object to abandoned calls being subjected to a more stringent test for legality where there is no message than where an automated message is played.

**c. Specifying a time limit for the connection to an agent**

- 4.6 Genesys considers that it is not unreasonable to require organisations to either connect a call to an agent within two seconds or, if not, play an abandoned call message after two seconds.

**d. Extension of the minimum ring time**

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- 4.7 The Policy states that calls which are unanswered must ring for a minimum of 15 seconds before disconnecting. Genesys' systems are programmed such that calls ring for a minimum of 30 seconds, and it considers this to be an appropriate minimum ring time.
- 4.8 While it is technically possible for a call to ring for longer than 30 seconds, in Genesys' experience only a very small proportion of calls which remain unanswered for 30 seconds are subsequently answered by consumers.
- 4.9 Genesys therefore does not have any objection to an extension of the minimum duration of time for which an unanswered call must ring to up to 30 seconds.

**e. Requiring management processes**

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- 4.10 As outlined in its response to Question 2, Genesys considers deliberate non-compliance with the Policy to be, by far, the most significant cause of silent and abandoned calls. It would welcome the introduction of good management processes or principles which would clarify or increase compliance with the current legal framework by these intentionally non-compliant companies.
- 4.11 Genesys believes that entities which intentionally disregard the current legal framework are best targeted through increased and more effective enforcement. Enhanced management processes would only be effective to the extent they reinforce such effective enforcement actions. In particular, there is a need to find a solution for controlling misuse of networks by companies established outside the UK.

<p>5. 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.</p>
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**a. Calling Line Identification**

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- 5.1 Genesys agrees with Ofcom that where a calling line identification is provided it should be a valid one. In Genesys' experience, however, it is not possible to guarantee that a calling line identification will be effectively conveyed through the public switched telephone network to the recipient of the call. This is an issue which is outside the control of the originator of the call.
- 5.2 The use of localised or rotating calling line identification does not have the same or a similar effect to abandoned or silent calls and should not be considered to be a form of persistent misuse. Rather, these solutions provide consumers with a quick and straightforward means of returning a call with the cost of a local call.

**b. Calls made during unsociable hours**

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5.3 In Genesys' experience, calls made during unsociable hours are not common. Most customers specify that calls should take place at certain times and Genesys' systems have safeguards in place to prevent the risk of accidental calls at unsociable hours. Again, this may be a more significant issue for companies in deliberate breach of the Policy or established outside the UK.

**c. Use of automated calling systems in combination with interactive voice messaging technology**

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5.4 Interactive voice messaging technology enables businesses and consumers to interact in an easy and structured manner. This provides significant cost savings for businesses from which consumers ultimately benefit.

5.5 Interactive voice messaging can be beneficial where it is used by a company which has the consumer's consent to do so as part of an ongoing relationship. This technology affords consumers a range of easy and convenient ways to interact with the companies they trust, for example in scheduling appointments or deliveries or activating credit cards. It places consumers in control of the service or transaction by enabling them to deal with calls in the way and at the time that is most convenient to them. For example, consumers do not need to worry about being seen to be rude if they choose to terminate/reschedule the call if it is at an inconvenient time and can deal with issues such as late payment of a bill for administrative issues without any risk that they may feel embarrassed in having to explain the situation to an agent. Genesys feels that where used as part of an existing business-consumer relationship, interactive voice messaging technology is a useful way of reaching consumers and of providing relevant and useful services to them.

5.6 In contrast, where a company does not have a prior relationship with the consumer, the use of interactive voice messaging does become closer in nature to an abandoned call with message. This is as it is an unsolicited call which does not afford consumers a service they have actively sought out. Such calls are often irrelevant to consumers and therefore are more likely to cause annoyance, inconvenience or anxiety.

5.7 Genesys does not think it is in consumers' or businesses' interests for consumers to be left on hold for a long time, regardless of whether this is done as a result of the use of interactive voice messaging technology or otherwise. It may, however, be preferable for consumers to be afforded a callback request facility through interactive voice messaging than to be kept on hold indefinitely. Genesys' customers are concerned to ensure their use of customer outreach technologies offers consumers a helpful tool which reduces costs, enhances customer service and maintains their brand's reputation and goodwill.

**d. Ofcom checklist or best practice guide**

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5.8 Genesys would welcome the publication by Ofcom of a checklist or best practice guide for compliance.

6. We have not identified any significant changes to this section of the policy, relating to the issuing of notifications, at this stage. However, we welcome views and evidence from stakeholders on any changes they consider may improve the understanding or clarity of this section of the policy.

6.1 Genesys does not have any comment on this question.

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

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

7.1 Genesys does not have any comment on this question as an outbound contact technology service provider.

8. 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:

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

8.1 Please see the above responses to Questions 4 and 5.

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

- 9.1 As explained above, Genesys considers intentional non-compliance to be the leading cause of abandoned or silent calls and that a key priority should be enforcement against those companies which use automated calling systems to contact consumers without any prior business relationship and without adequate processes in place to ensure compliance with the Policy. Moreover, measures are required to prevent breaches of the Policy by companies established outside the UK. This would, in Genesys' view, lead to a significant reduction in the volume and overall proportion of silent or abandoned calls, while safeguarding the benefits of automated calling technology for consumers and businesses alike.