

The Direct Marketing Association (UK) Ltd

Additional comments:

The DMA is pleased that OFCOM is reviewing the policy on persistent misuse and its enforcement powers in relation to silent and abandoned calls. The impact assessment carried out into the current issues that risk the telemarketing industry, including those reputable call centres and their clients, especially those are DMA members, into disrepute is thorough, and potential remedies to improve the position have been identified.

The DMA however are a little disappointed that the enforcement proposals are not more robust and widespread but more limited in their scope. The policy options have been carefully considered but any enforcement activity appears limited and in some cases completely discounted. For a revised statement to improve the actions of businesses and raise the reputation of the telemarketing industry, OFCOM should pursue not only the easy, big high profile companies but use its enforcement powers on a more widespread and consistent basis, if necessary in cooperation with the ICO and other regulators.

Question 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. Please refer to [Annex 4 Call for inputs questions](#) for details of the points you may wish to consider in your response.:

Anecdotal evidence from call centre practitioners seem to suggest that pre-recorded messages and other types of nuisance calls are more of an issue than silent or abandoned calls. Figures from Ofcom and the ICO seem to back this up with Ofcom receiving 3,600 complaints about silent calls in July this year whereas the ICO received 8,000 complaints about pre-recorded messages in September 2014.

However all silent and abandoned calls carry a high level of consumer harm and it is right to distinguish between them in terms of the harm that can be caused. Silent calls can cause the most distress as the consumer does not know who is calling. Abandoned calls can be frustrating but at least the consumer should know who has called.

In terms of landlines vs. mobiles, there is little between them, Mobiles may be considered more personal but for many older consumers, a landline may be their only method of communication and they may not have call number display either.

The adverse effect of a high rate of nuisance calls is that connection rates have decreased due to a high rate of automated calls. This just does not affect consumers but reduces the telephone as a marketing medium.

Question 2: We would welcome views and evidence from stakeholders on what are the key drivers of (a) silent calls and (b) abandoned calls. Please refer to [Annex 4 Call for inputs questions](#) for details of the points you may wish to consider in your response.:

When using ASC there are more false positives with calls to mobiles than with calls to landlines. This is probably due to the fact that calls to mobiles are likely to be answered in more noisy environments which can confuse AMD technology.

The 15 second rule does not cause a problem to reputable call centres but this is easily ignored by those businesses less concerned with complying with the rules.

Question 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.:

There is anecdotal evidence that following the 2010 statement, many companies stopped using AMD as it was difficult to comply. A high number of false positives were generated thereby breaching the rules but also having a great negative effect on productivity, which outweighed the benefits of AMD.

AMD is also less effective when calling mobiles, due to the technology used to transmit voice signals over mobile phone networks and because mobile calls are answered on the move there is more background noise interfering with the abilities of the technology.

Anecdotal evidence shows that call centres are less likely to use AMD if making mobile calls than if they concentrate on landline outbound calling.

There is little evidence that the accuracy of AMD has improved.

Question 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). Please refer to [Annex 4 Call for inputs questions](#) for details of the points you may wish to consider in your response. .:

The DMA believe that reducing the 3% threshold for abandoned calls to say 1% would make diallers less productive and would therefore have serious cost implications for call centres, which would have to be passed on to clients.

A better approach would be to prohibit silent calls completely by banning AMD. This could be achieved by raising the threshold to 4% and have a requirement to provide an information message which includes a free to call number to contact the caller.

If AMD were to be banned, the time limit to play the message could be reduced from two seconds to one second.

The DMA do not see the proposals regarding possible changes to good management processes to be of worth. It appears to be a box ticking exercise which companies will use as a defence to bad behaviour - "we followed our procedure so it is not our fault".

Question 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. Please refer to [Annex 4 Call for inputs questions](#) for details of the points you may wish to consider in your response.:

The DMA believes that companies should register their CLI with the Regulator. We appreciate the difficulties with this given the provisions within PECR regarding the right to withhold a CLI, but would urge OFCOM and the ICO to push for changes that will stop companies failing to provide a CLI or presenting a false one.

The DMA believes that the issue of IVM needs to be clarified. At present the use of IVM to make outbound calls where a recipient could be kept in a queue instead of being passed to a live operator seems in direct conflict with the rules on abandoned calls. This creates confusion especially as there is no service obligation on IVM users to connect consumers to a live agent in a timely manner. IVM should not be used in this way or time limits similar to abandoned calls should be imposed.

Question 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 :

The DMA believes that there needs to be greater clarity and transparency surrounding the sanctions imposed by OFCOM. Enforcement Notices that have been published often contain redaction leaving important details about the breaches supposed to have happen unknown. If a company has breached the provisions of the statement, full details of those breaches should be made public together with what sanction is imposed and how the sanction was arrived at. Other companies can learn as well from the errors of others.

There also needs to be more transparency over what will trigger enforcement action and how sanctions are decided upon. It is also important that OFCOM pursue enforcement action against a wider range of companies and not just pick the easier targets.

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), d) the split of call centre locations (domestic or overseas) that make calls to UK numbers.:

The DMA is not aware of any research on outbound call centre activity.

Question 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, e) have a different impact on different types of call centre, and if so, what factors affect the level of impact.:

The DMA believes that implementing some of the proposed changes could lead to increased cost to call centres and their clients leading to a reduction in the activities of call centres, which could see a reduction in the number of call centres and a reduction in competition in the telemarketing industry.

Question 9: We would welcome any