

20 December 2010

By email

Claudio Pollack
Consumer Group Head

claudio.pollack@ofcom.org.uk

Dear Sir/Madam

Tackling abandoned and silent calls

I am writing to remind you of Ofcom's monitoring and enforcement programme which seeks to address consumer harm created by abandoned and silent calls. This programme monitors complaints, engages with stakeholders and can result in a named investigation and fine of up to £2 million where there is evidence that a person has persistently misused an electronic communications network or service by making abandoned and silent calls.

In particular, I would like to draw your attention to Ofcom's new policy on the use of answer machine detection (AMD) technology, which comes into force on 1 February 2011.

Policy on Persistent Misuse

Ofcom published a revised version of its Statement of Policy on Persistent Misuse on 1 October 2010 ('the 2010 Statement'). This sets out Ofcom's approach when assessing whether to take enforcement action against companies that generate abandoned and silent calls (a particular form of persistent misuse). It describes the steps we expect automated calling systems (ACS) users to take to avoid making these calls and, where such calls are made, ways to limit consumer harm. This includes;

- ensuring an abandoned call rate (including a reasoned estimate of AMD false positives¹) of no more than 3% of live calls per campaign;
- not contacting consumers within 72 hours of their receiving an abandoned call without the guaranteed presence of a live operator;
- playing an automated message in the event of an abandoned call telling the consumer who rang and providing a number to dial to end future marketing calls; and

¹ An AMD false positive is where an AMD device mistakenly identifies a call as being answered by an answer machine, whereas, in reality, it has been answered by a live individual.

- making valid and accurate calling-line identification information available to consumers so they can trace who rang them by dialling 1471 in the event of a silent call.

The 2010 Statement is available on Ofcom's website at

<http://stakeholders.ofcom.org.uk/binaries/consultations/silentcalls/SilentCalls.pdf>.

Background information is available at <http://stakeholders.ofcom.org.uk/consultations/silent-calls/>.

I strongly recommend that you read the material provided above to re-familiarise yourself with our policy and ensure your company is compliant.

Use of AMD technology

From 1 February 2011, we will also expect that where a call has been identified by AMD technology as being picked up by an answer machine any repeat calls to that specific number within the same 24 hour period² may only be made with the guaranteed presence of a live operator.

£2 million financial penalty

Ofcom takes the issue of abandoned and silent calls very seriously. These calls are annoying, irritating and can be very frightening, particularly for people who live alone.

We have welcomed Parliament's decision to increase the financial penalty available to Ofcom to combat abandoned and silent calls, from £50,000 to £2 million³.

We believe the increased maximum penalty should pose a greater deterrent to companies misusing ACS. It will also enable us to more effectively tackle the serious problem of silent calls, strengthening the level of sanction of those in breach of our rules.

If you have any questions about the contents of this letter, please email Lucy Wicksteed (lucy.wicksteed@ofcom.org.uk) and Matthew Chapman (matthew.chapman@ofcom.org.uk).

Yours sincerely



Claudio Pollack

² Between midnight and midnight on a calendar day.

³ <http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=415608&NewsAreaID=2>