

26 July 2010

Mr. Matthew Chapman  
Consumer Affairs Team  
Ofcom  
6<sup>th</sup> Floor  
Riverside House  
2A Southwark Bridge Road  
London  
SE1 9HA

**RECORDED DELIVERY  
AND ELECTRONIC MAIL**

Dear Sirs

**Consultation – Tackling abandoned and silent calls**

We write in relation to the consultation which was launched by Ofcom on 1 June 2010 to the industry ("the Consultation") relating to its continuous review of its policy on the persistent misuse of an electronic communications network or service ("the Policy"), more specifically in relation to tackling abandoned and silent calls. We have set out the answers to the Consultation questions below.

Cabot Financial supports a regular review of the Policy by Ofcom to promote consumer protection and reduce any potential detriment to a consumer where companies are using a predictive dialler system. Notwithstanding the same, Cabot Financial believes that Ofcom should continue to monitor the impact to any business in having to ensure compliance with the Policy, more specifically during the current economic climate. Cabot Financial found that the last update to the Policy issued on 10 September 2008 was uneconomical and unpractical which led to a reduced contact rate to its customers and also considered that the subsequent updates on the Ofcom website could cause potential confusion, especially in view that the Policy was not physically updated.

**Introduction**

Cabot Financial is an industry leader in the consumer debt purchase industry in the United Kingdom having purchased and managed non-performing overdue debts from banks and other major lending companies since 1998. It is our aim to find solutions to resolve its customer's long outstanding debt problems and to assist in putting those customers' finances back on track. Cabot Financial employs over 400 employees in its head office in Kent to assist it with its operations and has adopted a predictive dialler strategy for the debt collection activity since 2001. Cabot Financial currently does not participate in any marketing or sales activity.

Cabot Financial is a member of the Credit Services Association ("CSA"), the Consumer Credit Trade Association ("CCTA") and the Civil Court Users Association ("CCUA"). Furthermore, Cabot Financial was a founding member of the Debt Buyers and Sellers Group ("DBSG") and regularly attends and participates in the Working Parties that all the above Associations organise. Cabot Financial is also vocal in the industry in promoting industry best practice and ensuring legal and regulatory compliance whilst maximising every opportunity in the industry.

**Cabot Financial (Europe) Limited**

1 Kings Hill Avenue, Kings Hill, West Malling, Kent ME19 4UA

Tel: +44(0)1732 524600

[www.cabotfinancial.com](http://www.cabotfinancial.com)

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## Questions and Answers

- 1) *Do you agree that Ofcom should limit the number of times a company can call an answer machine without guaranteeing the presence of a live operator to once every 24 hours?*

**Cabot does not support Ofcom's view that it should limit the number of times a company can call an answer machine without guaranteeing the presence of a live operator to once every 24 hours. Cabot Financial believes that this will significantly reduce its ability to contact customers which could further negatively impact them.**

**Cabot Financial believes that obtaining regular contact with its customers to discuss their financial circumstances is fundamental to maintaining, adjusting and setting up repayment plans to suit customers. Cabot Financial's policy is to stop applying interest on accounts when customers have repayment plans in place. On occasions and for whatever reason, customers fail to maintain their repayment plans. By reducing the amount of times Cabot Financial can call its customers, it is possible for customers to incur further interest charges on their accounts due to the lack of contact and the inability to speak to customers in order to resolve the situation.**

**We believe that it is of utmost importance to Ofcom to consider the debt collection industry as part of any Policy review. The challenge to any debt collection company is understanding and knowing when customers are available during the day to discuss their account. We believe that this result can only be achieved by way of communication with customers and therefore it is important that companies should be entitled to contacting customer on multiple occasions. Limiting calls once an answer machine is detected will mean that businesses will have fewer attempts of contacting a customer and as a result this will lead to less contact and could have a serious detrimental effect to businesses and customers financially.**

**We also note from the Consultation that Ofcom consider "in their opinion" that the majority of repeat silent calls are a direct result of AMD technology and that there are a number of reasons why repeated silent calls may occur. However, it appears that there is no concrete evidence for Ofcom's opinion. Furthermore, the Consultation does not list the other reasons for which Ofcom believe why repeated silent calls may occur. Cabot Financial believes that Ofcom may not have properly considered this aspect and may further promote uncertainty.**

**If Ofcom decides to adopt the approach as proposed, it is worth noting that the proposal will only work if the opinion made by Ofcom about most repeated silent calls resulting from AMD technology is accurate.**

**Cabot Financial believes that the Policy would benefit to define how many calls a company is allowed to make to an answer machine during its business' operating hours. For example, Cabot Financial's operating hours are Monday to Friday 8am – 9pm and Saturdays 9am to 4pm. We therefore believe that an attempt of 4 to 6 calls to an answer machine without guaranteeing the presence of a live operator during those operating hours would be reasonable. As a result, Cabot Financial believes the Policy should incorporate wording as follows:**

***"A company should, during its operating hours, reasonably define and limit the amount of calls it makes to an answer machine without guaranteeing the presence of a live operator. Ofcom believes that a maximum of 6 calls to an answer machine without guaranteeing the presence of a live operator, where the operating hours of a business exceeds 10 hours, is reasonable and where the operating hours are less than 8 hours Ofcom believes a maximum of 3 calls is reasonable."***

- 2) *Do you agree with Ofcom that a two month implementation period (from publication of Ofcom's revised statement) would be an appropriate length of time for industry stakeholders to adopt any changes to comply with the proposed 24 hour policy?*

Cabot Financial do not believe it is in a position to answer this question as it will be the manufacturers of predictive dialler systems who will be required to make those changes and Cabot Financial is dependent on the manufacturers in being able to implement the changes effectively.

Notwithstanding the same, Cabot Financial wish to highlight that it will still have a significant impact on businesses due to increased costs, staffing levels, training (see table 2, section 3.26) and infrastructure.

Cabot Financial have found that the current minimum lead time to recruit collection officers is 3 to 4 months, which includes training and, where necessary, "up-skilling" of existing employees. In addition, businesses' premises may be affected due to limited availability and space (Health and Safety issues) in addition to an increased cost and availability of telephony equipment, telephony services, other hardware and software licences. We consider that Section 3.26 of the Consultation currently only considers incremental staff and staff costs. Cabot Financial believes that in the current economic climate many companies will simply not be able to adopt the changes without incurring significant costs and therefore limiting any business successful growth or expansion.

- 3) *Has Ofcom provided sufficient clarity on how the abandoned call rate is to be calculated?*

Although Ofcom has provided sufficient clarity on how the abandoned call rate is to be calculated, we believe that the calculation does not take into account the actual position and believe the manner in which the calculation is established to fundamentally incorrect. We have set out our reasons for this in the answer to question 4.

- 4) *Do you agree with the factors set out by Ofcom for determining a reasoned estimate of AMD false positives in an ACS user's abandoned call rate?*

Cabot Financial does not agree with the factors set out by Ofcom for determining a reasoned estimate of AMD false positives in an ACS user's abandoned call rate.

Cabot Financial believes that the false positive rate is purely a function of the number of people contacted, i.e. live calls. More specifically, Cabot Financial believes that false positives should be calculated against live calls and not against answer machine calls as it current sets out.

Cabot Financial strongly supports the DMA calculation in relation to this matter and has scheduled the DMA calculation to this response as an annex.

Cabot Financial would like to assist Ofcom by giving an example as to our reasoning:

In the event there are particularly low contact rates (1%) and a reasonably high AMD rate (50% of all calls), then it is possible to arrive at a calculation where a similar number are considered false positives (assuming a 1.5% false positive rate based on AMD) than those actually contacted.

Taking this example in numbers:

Contact List size:	10,000 numbers
Answer Machines Detected:	5,000
Live Contacts transferred to an agent:	100
False positives:	75 (1.5% of 5000)

Abandoned rate calculation:  $0+75 / (100+75) = 42.8\%$

We believe therefore that the method of calculation suggests that the Contact List is in fact significantly of a better quality than actually experienced.

- 5) *Has Ofcom provided sufficient clarity on how AMD users should calculate an abandoned call rate that includes a reasoned estimate of AMD false positives?*

Cabot Financial believes that the calculation is clear but we believe the data to be used is providing the incorrect conclusion. Please see our answer to question 4 above.

- 6) *Has Ofcom provided sufficient clarity on how non-AMD users should calculate an abandoned call rate that includes an estimate of abandoned calls picked up by answer machines?*

Cabot Financial believes that the formula used on how non-AMD users should calculate an abandoned call rate that includes an estimate of abandoned calls picked up by answer machines is inaccurate and potentially confusing.

We would again refer you to the DMA calculation which we believe has arrived at the precise position.

- 7) *Do you agree that Ofcom should not amend the existing two second policy as set out in the 2009 Amendment from 'start of salutation' to 'end of salutation'?*

Cabot Financial does not agree with this proposal. Cabot Financial strongly maintains that the 2 second policy should be from the 'end of salutation' which will significantly reduce consumer detriment and the rate of abandoned and silent calls that consumers may experience.

In addition, it is believed that the 'end of salutation' rule is adopted in other countries and is considered common practice. Furthermore, Cabot Financial strongly believes that it allows the AMD technology to be fully successful.

- 8) *Do you agree with Ofcom's policy proposal that companies provide a geographic contact number (01,02 or 03) in addition to a freephone (080) number in the information message provided in the event of an abandoned call?*

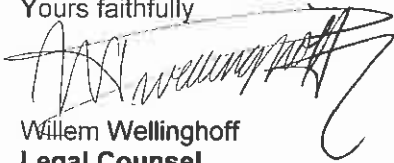
Although Cabot Financial has no objection to this proposal, we believe it may cause consumer confusion as there may be too many telephone numbers the customer may have to retain to contact a business. We also believe that Ofcom should consider the impact on small businesses that are required to provide a freephone number and the potential abuse of a freephone number by consumers as businesses would be required to pay the cost. We believe, however, that providing a geographic contact number or a lo-call contact number for consumers who are abroad is beneficial.

9) *Has Ofcom provided sufficient clarity on what constitutes a 'campaign'?*

Yes. We believe that Ofcom has provided sufficient clarity on what constitutes a 'campaign' albeit we believe it is more telemarketing specific.

We trust our response to your consultation assists in line with other consultation responses. However, should you have any further queries in relation to our response, please do not hesitate to contact us.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Willem Wellinghoff', written over a horizontal line.

Willem Wellinghoff  
**Legal Counsel**