



7 November 2014

BTs response to Ofcom's Call for inputs

'Review of how we use our persistent misuse powers' -

Focus on silent and abandoned calls

Executive Summary:

We support the work Ofcom is doing to tackle the issue of nuisance calls and protect customers from the harm caused by them. Nuisance calls impact consumers, they damage the reputation of the telemarketing industry which customers can benefit from and as a result the use of the fixed line is starting to suffer as customers do not answer calls. This in itself may be harmful particularly where elderly customers avoid answering calls from e.g. doctors and relatives.

In our view priority should be given to the following key drivers:

- a) Create a focused program on addressing intentional non-compliant behaviour - Tracing companies that have no intention of following the rules.
- b) Organisations lack of policy awareness – Improve this through industry workshops
- c) Lack of structured company governance and management process failures - Create Ofcom best practice guide/ checklist as part of the policy.

Drivers b) and c) are more likely to improve any unintentional harm than continuing to tighten the regulation.

We would be happy to continue to discuss and input to any of the points made with Ofcom.

Summary of views:

1. BT takes the issue of nuisance calls very seriously and welcomes a review of the policy and the aim to look at how Ofcom can use their powers.
2. We are concerned about the harm and distress nuisance calls cause our customers, the damage they have on the telemarketing industry's reputation and the impact on the use of the fixed line.
3. Telemarketing is essential to our business in communicating with our customers. It allows us to make sure customers are aware of our latest products and services as well as any offers they may benefit from. For example, information on our fibre roll-out, that their product or service is coming to the end of its term and to keep existing savings they need to take action. We also use ACS to help us convey important service messages. Many customers benefit from these calls.
4. We are concerned companies that flout the rules continue to give the industry a bad reputation. Whilst some of the proposals in the Call for Inputs, such as clear guidelines and a checklist, may help companies to understand and possibly comply more; additional tightening of the rules will have no impact on those who systematically choose to ignore them. It will however increase compliance measures for companies already complying.
5. Many of our customers tell us that they no longer answer a call from their fixed line for fear of an unwanted/ nuisance call. This behaviour will lead to a decline in the use of the fixed line market, which is not good for the consumer or the telecoms industry.
6. We welcome the work Ofcom and the ICO have done to raise consumer awareness and tackle nuisance calls. We appreciate Ofcom may not be able to take action on each and every case, but a focus of resource on rogue companies would help Ofcom (as well as other regulatory agencies) tackle the large volumes of complaints still received from customers, with more speed and possible success.
7. We would like to see the ICO and Ofcom maximise the use of the industry tracing process so appropriate action can be taken sooner and in some cases immediately; be it raising

awareness, correcting bad practice or more formal action where deliberate harm is being caused.

8. We note the global work Ofcom is doing as well as the work with NICC (Network Standards Committee). We would encourage continued cross border working especially as some of the potential solutions appear to be a number of years away.
9. Workshops to raise awareness of PECR and Persistent Misuse would be useful. It could result in companies that use ACS having a better understanding of the policies and how activities can be managed to reduce any unintentional non-compliance.

BT's Answers to Call for Input questions:

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**

Q1 Answer:

Since April 2012 calls into our Nuisance Call Advice Team (NCAL) have reduced from 50K per month to an average of 22k per month. In addition to this we have approximately 25k hits on our unwanted calls website from customers looking for advice. Volumes of customer complaints into NCAL declined steadily until June 13, since then the trend has been flat at an average of 22K complaints per month.

Many of our customers who call our NCAL team tell us nuisance calls are stressful, worrying and distressing. Other customers find them annoying, inconvenient and irritating. Customers who are more likely to be at home and available to answer their fixed line during the day are more likely to be affected.

Information gathered from our NCAL team suggests customers can receive an average of between 6-10 unwanted calls per day; some are called several times an hour. Most customers deal with any unwanted call in a few seconds as they replace the handset straight away. Several customers said it takes about a minute.

We note that it would be impossible to say if these calls would have been silent or abandoned due to the speed a customer replaced the handset. However it is worth noting the level of distress and frustration customers feel at the point of calling our advice team.

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).**

Q2 Answer:

We agree the main driver for silent and abandoned calls is the inappropriate use of ACS and that all the reasons listed in the review are potential drivers. It is important to note that it is not the actual technology but the management of ACS that leads to silent and abandoned calls.

From the key drivers listed in Figure 1 we believe the overwhelming top three that require particular focus are:

- Intentional behaviour (rogues not complying)
- Lack of company awareness
- Management process failures

We are not aware from our customers of other issues specific to mobiles in addition to poor geographical coverage that could be causing silent or abandoned/nuisance calls. However from personal experience customers with touch screens can inadvertently drop calls instead of answering them. Mistakenly they may believe it is the calling party hanging up.

We do not have any evidence from customers that the length of the ring in itself is a driver for nuisance complaints. A ring time of a minimum of 15 seconds achieves an appropriate balance between allowing customers to get to the phone vs ringing for too long and causing annoyance.

Q3: We would welcome views and evidence on the use of AMD including:

- **if call centres have changed their use of AMD in recent years and if so why**
- **the volume of calls made by call centres with and without the use of AMD**
- **false positive rates when using AMD and any data to suggest that the accuracy of AMD has improved in recent years**

Q3 Answer:

BT does not use AMD. This is largely due to the onerous and complex monitoring requirements in order to comply with the policy which means there are no operational efficiencies. We think AMD may have a place in call centre operations that would benefit both consumers and businesses, however we are reluctant to trial any new AMD technology for fear of non-compliance.

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 examples, 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).

Q4 Answer:

A move to a zero - 1% abandonment threshold would be restrictive and could push more and more companies to use overseas providers which would make it more difficult to trace and enforce the regulation. The impact of this is likely to cause additional harm to consumers and again will reflect badly on the industry as a whole.

We believe a 3% abandoned call rate is appropriate and should be retained. This allows flexibility and effective and efficient management of both diallers and resource available. A zero – 1% abandonment rate would remove the efficiencies of ACS and impact the productivity of a call centre.

Therefore we support Ofcom's proposed change for 'a differentiation between abandoned calls with message and silent calls and that a lower threshold should be applied for enforcing against silent calls', whilst maintaining the existing threshold of 3% for abandoned calls.

Playing a message to say who has called after 2 seconds on any dropped call should be best practice and will help reduce any potential consumer harm, anxiety or annoyance.

Taking enforcement action once a certain number of abandoned or silent calls have been exceeded would be difficult for Ofcom to monitor and enforce. Depending on the size of a call centre operation - deciding on a suitable number could be extremely time consuming for Ofcom and take the focus away from companies intentionally not complying. A specific number of abandoned or silent calls have the potential to unfairly disadvantage larger companies operating under the current rules, and encourage more dropped calls from the smaller ones. A percentage is likely to be more fair and easier to monitor.

We support specifying a time for calls being connected to either a live agent or a recorded message (be it a dropped call message or service message) within 2 seconds to align with the abandoned call message rules.

As mentioned in our answer to Question 2, the length of the ring does not appear to be a driver for nuisance complaints. A ring time of a minimum of 15 seconds achieves an appropriate balance between allowing customers to get to the phone vs causing annoyance for ringing for too long.

A ring time of 15 seconds should remain the minimum and leave it up to the individual company to decide if they want to call for longer.

We fully support Ofcom specifying they will take into account the processes companies have in place to prevent, identify and rectify misuse. Reputable companies large or small should have processes in the work place to ensure they adhere to the rules and Ofcom should take this into account during any investigation.

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.**

Q5 Answer:

We believe all the examples of misuse are still relevant and that Ofcom should enforce against them all and not just focus on silent and abandoned calls. We agree Ofcom must prioritise the different types of nuisance so they are able to act quickly and take immediate action especially where CPs identify real distress, as in the following examples:

Example 1

A customer's CLI was spoofed. The customer received 200 returned calls to their number daily.

Example 2

A "scammer" spoofs the number of, for example, someone's bank so they are conned into answering.

The requirement to have an appropriate CLI needs to continue. Ofcom must make it clear they will take action against companies deliberately not providing a valid CLI. Maximising the number of traces using the industry tracing process may help to identify companies not complying quicker so appropriate action can be taken. Ofcom and the ICO may need to consider allocating more resource for this to happen.

Currently the policy implies that it is within Ofcom's powers to take action against all of these types of misuse. This can often cause confusion. We recommend Ofcom make it clear, within the policy, which enforcement body can take action against each type of misuse e.g. scams are the Police, Marketing calls – ICO, Premium rate issues – PPP, Invalid CLI – Ofcom.

To minimise consumer harm and anxiety we strongly recommend a recorded message is played when a customer returns a call to the CLI. A mandatory recorded message is preferable to connecting to a live agent as the customer may not wish to speak to a live agent and just want to know who called. The message should contain the name of the company but not include any marketing content.

Regarding the use of localised CLIs we suggest any policy rules align with the CLI guidelines NICC is currently reviewing.

We appreciate the work being undertaken globally and by NICC to address CLI issues especially those using VoIP services, but until a solution is found we encourage Ofcom to continue to pursue relationships with cross border agencies to help with unwanted calls generated from abroad.

If Ofcom are going to take enforcement action for calls made during unsociable hours a defined term and more guidance in the policy is required.

In regards to IVM systems being used for outbound dialling where a consumer is kept on hold rather than immediately connected to a live agent we agree this is not a good customer experience. However we believe IVM does have its place and guidance around its use would be beneficial. Good processes, management and technology should ensure adequate resource is available.

We support a best practice guide/ checklist as part of the policy. Workshops to raise awareness of PECR and Persistent Misuse would be useful. It could result in companies using ACS having a better

understanding of the policies and how activities can be managed to reduce any unintentional non-compliance.

Q6: 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.

Q6 Answer:

We are aware of the action Ofcom formally takes as it is published on the Ofcom bulletin pages. This is useful as it helps call centres to incorporate any learning into their best practice. It also helps CPs, to know that the work they are doing to either trace a call, raise customer awareness or encourage customers to register their complaint is worthwhile and making a difference.

Ofcom mention that not every case will be dealt with individually due to resource constraints. Therefore we suggest Ofcom should recognise where companies are trying to comply and should they fail on occasion, treat these cases significantly differently to companies who deliberately choose not to comply. Companies trying to comply may need clarification of the rules or advice on what they can do to rectify what they are doing wrong. Leaving resource available in Ofcom to focus on those harder to trace and who are often the companies causing most harm.

We would like Ofcom to recognise that delivering a dropped call message and displaying valid CLI means it is easier for customers to register a complaint to Ofcom. When a company does not deliver a valid CLI or does not leave an appropriate message to say who has called this often deters customers from making a complaint and adds to their frustration and anxiety. Whilst we are all raising consumer awareness to encourage customers to tell us about cases of misuse, predominantly taking action against those companies easier to identify may have the opposite effect and encourage more companies to not to comply.

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.**

Q7 Answer:

The DMA is probably best placed to provide data on the outbound telemarketing industry.

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**
- **have a different impact on different types of call centre, and if so, what factors affect the level of impact.**

Q8 Answer:

Depending on the age and type of dialler, some of the proposed changes may incur some company's additional costs to upgrade or replace them.

If we had to deploy new technology to comply with new rules it could require a significant amount of, up front, capital investment. Additional costs could also be incurred as any change made to the dialler would need to make sure all data systems and processes linking to it are reconfigured or changed. This would be time consuming and expensive.

Introducing a specified time to connect a call to a live agent may impact on efficiency and operating costs in the call centre. Call centre resource management will need to make sure sufficient resource is available to take the calls within the allotted time. Slowing diallers down may also impact productivity. Depending on whether all call centres did this it may impact the call centre market and costs could potentially be passed on to customers.

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

As mentioned in our answer to Q6 we believe some companies do not display valid CLI or deliver an appropriate dropped call message in order to reduce the likelihood of a complaint to Ofcom.

Introducing a stricter policy will have no effect on these types of companies and may also have the unfortunate effect of encouraging more companies to go down a similar route of hiding their identity, making the problem worse.

Clearer guidance e.g. a checklist/best practice guide included within the policy and improved awareness via workshops will help to minimise any non-intentional behaviours. Asking or mandating companies to register their outbound calling presentation CLI with Ofcom is an idea that should be explored. It would be useful to understand what would be involved and the benefits it may have.

-END-