

Response to Call for Input from Ofcom on Persistent Misuse Powers

Information about the Credit Services Association

The Credit Services Association (CSA) is the only national trade association in the UK for businesses specialising in debt recovery, debt purchase, tracing and related services. The aim of the CSA is to develop and uphold the highest professional standards across the credit industry. It achieves this by setting standards for, and providing compliance and guidance to, its Members to ensure that such standards are widely adhered to. A central part of the CSA's commitment to standards is its Code of Practice which sets out very clearly the standards expected of Members.

The CSA has in excess of 400 Member firms. Around 90% of all debt collection companies and most debt buyers are Members of the Association. The Membership also comprises specialist tracing agencies, in-house collection departments of large banks and utility companies, accountancy firms, law firms and all three major Credit Reference Agencies. CSA Members own and/or collect about £60bn of consumer credit receivables per annum.

The clients of CSA Members include major financial institutions (such as banks and building societies), credit grantors, government departments and local authorities, utility companies and mail order businesses. CSA members are now becoming regulated by FCA which assumed responsibility for Consumer Credit regulation in April 2014. Nevertheless, a significant percentage of outstanding debt handled by our Members stems from agreements which are not regulated such as utility supply (gas, electric, water), public sector, telephone and mail order.

The functions performed by Members are vital to the efficient operation of the consumer credit market. Unpaid debts cause damage to lenders and to borrowers by adding costs to the system which result in higher prices for credit. Serious problems with unpaid debt may also lead to restrictions in the availability of credit, particularly to consumers who may otherwise find it difficult to obtain cost-effective credit and therefore have a detrimental impact on the overall growth of the economy.

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.

1.1 Evidence of changes in the nature and magnitude of the harm since we last reviewed the policy in 2010.

It is our view that the main causes of consumer harm from silent or abandon calls is perpetrated by rogue companies not following the existing guidelines. This is demonstrated by Ofcom's own analysis of complaints data showing that this could account for up to 67% of complaints received. It is our view the majority of these call types are being generated by off-shore firms soliciting customers for PPI claims who are then selling leads back to the UK. In addition to live agent calls these types of calls can be attributed to the rise in the volumes of automated voice messaging contacts.

1.2 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).

Ofcom's own evidence demonstrates customers are most concerned by both silent calls and those that don't carry a CLI which demonstrates the need to focus on companies not adhering to the existing guidelines rather than tighten any guidelines that already exist.

Ofcom's research published in May 14 identified that PPI Claims (51%), energy (14%) or pension rebates (10%) where the main identifiable perpetrators of nuisance calls and, in terms of annoyance, recorded sales calls were stated as annoying by higher proportions than all other types (94%); Silent calls were the next most annoying type of nuisance call (89%).

Companies that are members of the CSA are very concerned about ensuring they have an excellent and consistent customer experience and aren't the root cause of the nuisance calls issue. The harm will differ dependent on the type of call and we'd therefore encourage Ofcom not to continue to apply one size fits all guidelines that negatively impact companies with legitimate reasons for making contact with consumers.

Ofcom should distinguish between unsolicited calls and calls where the consumer has a legitimate reason to be contacted and the nature of the call is not sales. Customer care and notification calls, reminders for payments, debt resolution, appointment reminders, and fraud notifications all have value to the recipient and should be allowed to continue to have the legitimate use of ACS technology within the existing guidelines.

1.3 Types of harm other than wasted time and distress.

In addition to wasted time and distress the other factor is annoyance which we believe is primarily driven by the type of call being received and, as demonstrated by Ofcom's research, is primarily related to unsolicited sales or silent calls.

1.4 Whether the distress caused by nuisance calls can be quantified and if so how.

It's difficult to quantify the actual harm to consumers but again any measurements taken should relate to the purpose of the call. Calls for legitimate reasons by companies who follow the existing guidelines shouldn't cause consumers any distress as the company making the call will be fully disclosed and the consumer will be aware of the reason.

1.5 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.

Again it's difficult to quantify however it should be considered that only calls which aren't due to a legitimate reason to be contacted and in line with the existing guidelines would require consumers to deal with an unwanted call.

1.6 Views on the relationship between silent and abandoned calls and other call types

It's our view that silent calls cause the most consumer harm and the majority are being created by off-shore companies who ignore the existing guidelines and misuse Answer Machine Detect technology from the industry sector identified in 1.1.

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:

2.1 Whether the main driver for abandoned calls is the use of ACS or if there are other key drivers.

The main driver for abandoned calls is intentional non-compliance with existing guidelines rather than compliant use of ACS by legitimate companies with a legitimate reason for contacting the consumer. It's our view most of these companies are set up in jurisdictions outside the UK and sell the "qualified lead" back into the UK therefore tackling regulation around how lead data is sold would be a key factor in reducing nuisance call volumes.

2.2 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.

Yes they are all possible reasons however intentional misuse and AMD will be, in our view, the primary causes.

2.3 Evidence of the key drivers of silent or abandoned calls.

We believe Ofcom have gathered enough evidence that the key drivers are unsolicited calls where, in particular, they misuse AMD or intentionally do not follow existing guidelines.

2.4 Aside from mobile coverage, whether there are other issues specific to mobiles that could be causing silent or abandoned calls.

Mobile calls may drop for many reasons such as network congestion, configuration, O&M activity, signalling, power, etc. or may be due to subscriber behaviour and therefore we don't believe this is an issue that can be addressed by dialler technology as these events can all occur in a manual launched call.

2.5 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).

Feedback from our members is that ring times are typically configured between 15 and 21 secs to avoid network based answer machines.

Q3: 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.

We believe the majority of our members no longer use AMD technology, although this has greatly increased their costs to operate. The reasons for doing this are the existing guidelines around an assumed false positive rate make it difficult for members to ensure with a degree of confidence the abandon call rates being measured are accurate. It's our view though that accurate AMD use would benefit both business and consumers by reducing abandoned calls and improving the efficiency of

contact centres. To achieve this we believe network based AMD is required and is viable if offered by UK Telco's at a commercially viable rate.

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:

4.1 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 changes that should be considered, for example, to make it clearer and easier for stakeholders to understand and follow or to specifically address calls made to mobile phones.

Reduce the current 3% abandoned call rate to a lower level e.g. to 1%:

This option will not significantly reduce the volume of nuisance calls as by Ofcom's own research the current volumes are being driven by companies who don't follow the existing guidelines. The 3% limit is a balanced tolerance which allows legitimate contact centres to call customers cost effectively and is in line with similar guidelines in the USA from the FCC and less than the Canadian equivalent at 5%.

Remove the current 3% abandoned call rate set out in the policy i.e. move to zero:

Dropping the abandon call rate effectively outlaws the use of ACS systems and will only harm legitimate UK businesses. This will not deter the off-shore companies who already ignore the guidelines in their current form. This would put up to 290 thousand jobs at risk which is the estimated number of people employed in the UK outbound industry as without dialler technology much of outbound calling would no longer be cost effective. This would also harm consumers as legitimate outbound contact reasons would no longer be attempted leaving only unsolicited and unwanted calls. (*Contact Babel report)*

Differentiate between abandoned calls with message and silent calls, and apply a lower or zero threshold for enforcing against silent calls:

It's our view that silent calls do cause more consumer harm and should therefore be measured differently. We don't believe however that a zero per cent threshold is achievable as agent behaviour or consumer behaviour can lead to perceived silent calls from both manual and ACS initiated calling. Silent calls should be treated differently however and AMD should therefore not be used unless it can be proven to be highly accurate.

Specify that we are more likely to take enforcement action once a certain number of abandoned and/or silent calls over a set period (e.g. 24 hours) have been exceeded (though we may nonetheless take action below that level if appropriate):

It's our view applying a fixed threshold would unfairly penalise larger contact centre operators and potentially would encourage negative behaviour with more operators attempting to create smaller campaign hierarchies that allow them to stay under the limit per campaign but leads to an actual higher volume of abandoned calls.

Specify a time limit for calls being connected to a live agent and then starting to speak to the consumer e.g. two seconds to align with how quickly an abandoned call message should be played:

It's our view this approach is already adopted by the majority of our members and would be a sensible addition to the guidelines.

Extending the minimum ring time to longer than 15 seconds:

It's our view this is a sensible addition but the minimum time should be researched to ensure it falls below the UK average network level answer machine/voicemail interception time.

4.2 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)

It would be difficult to quantify the financial impact without detailed research across all industries that use ACS technology but our belief is lowering the 3% threshold would have a significant detrimental impact on productivity and would therefore put a large number of jobs at risk and cost UK businesses significant sums of money that would result in many small to medium size companies working in outbound sectors having to close.

In addition to the UK business impact services such as the NHS will be impacted that have seen 'Do not attend' rates fall by up to 45% using reminder call services operated on ACS platforms and consumers will be harmed as legitimate outbound call reasons will be reduced such as payment reminders or debt resolution leading to reduced consumer engagement and increased levels of consumer debt.

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:

5.1 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.

We believe the existing examples remain relevant.

5.2 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).

We agree all calls made via an ACS system should carry a valid CLI which allows a return call to be made and identifies the company that has made the call.

- 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.
We don't believe this requires clarification as we are not aware of a high number of complaints in relation to calls during unsociable hours and our members follow guidelines on this as outlined by the FCA.
- 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.
There are valid benefits to consumers being offered a local call back number as currently there is not enough understanding with the UK general public with regards to call charges for calling 0300 numbers. We are aware that some contact centres display local numbers to

ensure consumers are immediately aware of the cost to return the call. As long as the CLI is valid, terminates to the correct company and conforms to existing guidelines we see no reason for change.

- Whether a checklist and/or best practice guide would be useful and, if so, how such documents could be best developed and communicated.
Yes this would be useful and particularly in regards to the use of AMD technology. We'd be happy to work with Ofcom on development of this type of documentation.

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.

We don't believe any changes are required.

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.

In 'UK Contact Centres 2012: The State of the Industry' ContactBabel reports a total of 1,071,125 jobs in the sector in 2011 forecast to rise to 1,178,600 jobs in 2015. Previous estimates have put the outbound industry representing 29% of the total numbers employed.

We don't have detailed statistics to share but would recommend contacting ContactBabel who have performed many detailed surveys over the years on the UK Contact Centre 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; and
- have a different impact on different types of call centre, and if so, what factors affect the level of impact.

Within our industry a major part of the recovery process is making outbound calls to establish contact. We believe the current guidelines are adequate and fear that if the abandon call rate guideline is reduced costs will significantly increase for our members and creditors, and it will have an adverse effect on the debt collection industries' collection capabilities as a whole. This could therefore lead to increased financial difficulties for more consumers if their debt moves further down the debt recovery process, as DCA's will have a reduced opportunity to properly explain all of the options available due to decreased capabilities to make outbound calls and engage with consumers.

The staff who represent our industry are skilled and dedicated individuals who work diligently to find the best resolution for the consumers they call, and creditors alike. This change would greatly hinder the chances of DCAs making resolutions with consumers, therefore leading to escalating financial problems for the individuals. This would also lead to major losses for companies operating in the UK which again would lead to a detrimental impact on the UK economy. We therefore recommend if this section is to be amended it should be targeted against only unsolicited calls which are currently causing the most consumer harm and companies making calls for legitimate reasons should remain working with the existing guidelines.

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

We believe our members already understand the importance of the policy in its existing form and work diligently to ensure compliance.