

Adepra response to Ofcom Revised statement of policy on the persistent misuse of an electronic communications network or service

1.Introduction

Adepra Limited (“Adepra”) is a provider of automated interactive consumer communications (automated alerts and messages) primarily to the financial services sector and therefore our clients comprise predominantly of banks and other financial institutions where a first party relationship exists between our client and the consumers we communicate with on their behalf. Indeed, the majority of major retail banking institutions in the UK use Adepra’s technology to communicate with their customers on time-critical issues such as Credit Card Fraud, Card Activation and Payment reminders.

Adepra and its clients strive to provide high quality and ethical services, in part because of the nature of our client base and in order to achieve and maintain high rates of consumer interaction. Banks and other financial institutions operate in a heavily regulated and competitive environment and as such they are sensitive to consumer and media pressure/influence. Adepra therefore has to ensure that its services and processes are robust and subject to external audit (for example MiFid regulations) and public acceptance. Indeed, our clients go to great lengths to communicate with their customers about the use of such automated calls, for example, by informing their customers on their monthly statements of the introduction of such technology, providing statements on their web-sites and providing free phone numbers for Consumers to call where they can hear an example of an interactive automated call. We have provided some representative samples of these communications in the Annex to this submission.

Adepra has proactively liaised with Oftel (Ofcom’s predecessor) and Ofcom in respect of the services that it offers. It has also liaised with the Office of the Information Commissioner to ensure that it applies best practice and complies with its data protection obligations and supports the data protection obligations of its clients.

Adepra complies with our obligations under the Communications Act 2003 and does not condone silent calls or any communication that is a nuisance to called parties or a misuse of a public telecommunications network. Adepra complies with the Ofcom Statement of Policy on the persistent misuse of electronic communications network or service.

Adepra is an automated interactive voice & auto-resolution service. We make automated out-bound calls to consumers and provide them with the ability to ‘self serve’ by making a selection from a menu of voice options that are targeted to them by our clients specifically, either pre-determined from the pre-existing account attributes, and/or by options & information provided by the consumer during the call.

Adepra forms a constituent part of a multi channel communication strategy and provides the ability for clients to manage in-bound calls that result from the Adepra solution leaving a voice mail, or from other passive out-bound communications such as SMS, letters and statement messages. This reduces call waiting times in contact centres and provides a 24X7 service available to the Consumer.

Account records are sent to Adepra and out-bound calls are made using a combination of pre recorded scripts and text to speech technology. The customer responds to the call by pressing their telephone key pad. As a result, the customer is intelligently routed through the appropriate scripts and options.

Key attributes of Adepra's Technology

- Adepra's Auto-Resolution applications attempt to resolve an interaction with a call recipient without the need for contact with a live call-centre agent. Adepra's technology does not make Silent Call's as the interaction is designed to be conducted without the need for a human agent. . Similarly, the technology does not abandon a call, as the script allows a recipient to resolve an issue without the need of a human agent being available. This provides a significant advantage over traditional 'power-dialler' technology.
- Delivery of information is perfectly consistent and compliant every time. This always ensures the correct level of authentication before personal information is divulged.
- Adepra also provide the call recipient the option to prevent further calls if they are not the right party. Specific options are provided for those recipients that advise they are not the right party; these include for example the ability to advise the right party is not available on that number in which case no further dialling is made to that number for that consumer.
- Adepra's technology is used by our clients to reduce Consumer risk arising from issues such as fraud, identity theft and late-payment.
- Adepra's technology provides the Consumer with more choice than traditional communication methods due to the 'self-serve' options available during a call. The Consumer is more in control of the call than with a human call centre and the call is less intimidating that a human call centre call may be. In the Annex we have provided details of what these "self-serve" options consist of and how they increase the flexibility available to the Consumer.
- Adepra is a flexible, virtual resource. It can therefore assist with peaks in volumes that can't be worked by a physical operation, enabling our clients to comply with the banking code and responsible lending practices by making as many contacts early in the re-payment failure situation or in the case of fraud prevention reduce a fraudsters cycle of spending.
- Consumers prefer 'non-personal' contact, in payment reminder situations.
- Adepra clearly positions contact centre resources as specialist communicators and simply automates the routine and/or simple tasks.
- Personal consumer information is further protected by a reduced amount of customers/data being accessed by human call-centre resource.

Our credentials

- Adepra are highly accredited for Data Security we are the *only* vendor in our sector to achieve Payment Card Industry (PCI) certification (the data security standard sponsored by Visa, MasterCard and others) as well as ISO27001 (the International standard for Information Security Management) & DPA registration.
- Segmented, targeted and intelligent communications are pre-determined by account attributes and customer interactions and which are all controlled real-time through the Adepra Web Portal.
- Unrivalled experience with operations in the US, UK and continental Europe supporting over 40 Clients and over 79 Million customer cases per year.

Adepra has been recognized and has won many distinctions over time for its applications. These awards are testament to the acceptance by call recipients to interact with Adepra auto-resolution calls.

2. General Response

Adepra and its clients strongly believe that both our clients and their customers expect more appropriate and timely communication. The Adepra services are provided with the following benefits to the end user:

- (i) a reminder about a late payment which saves the called party from increased cost or inconvenience for delinquent payments; and
- (ii) in addition to (i) above, where fraud is also suspected the call may prevent a card from being suspended and the customer being put to greater inconvenience by losing a payment method through the credit card provided; and
- (iii) a called party finds the call less intrusive and less intimidating than a human caller; and
- (iv) In respect of payment reminder calls the success of this approach does reduce additional costs for consumers through avoiding penalty charges and late interest charges.
- (v) Payment reminders may prevent the lender from suspending further use of a revolving credit product and/or the need for them to report failed re-payments to a credit bureau which may impede the consumers ability to be offered credit in future or indeed the likelihood of the lender extending further credit in future

Using Adepra for automated contact applications enables our clients to increase scale immediately, in the event of an un-expected or rapid emergence of a major debt or a fraud issue. Our clients can respond in a timely and appropriate manner without the constraints of a physical operation, creating specialist resources within the contact centre to manage more complex tasks such as debt counselling or fraud investigation. This is not possible with a human contact centre which by definition has a fixed capacity.

The ultimate beneficiary of an automated notification service is the consumer as interest charges are reduced due to the payment reminder service and fraud on their accounts is combated earlier as contact is possible more quickly using our non-human constrained service. The costs of fraud alone on credit cards in the UK last year was projected at £481 Million (source: APACS) and ultimately the consumer will bear this cost. .

Because of the dynamics of modern communications, travel and also consumer demand for real time customer service and problem resolution, there is a place for automation on some of the services and processes that businesses offer. The motivation for automation is not primarily cost but is about getting enhanced service delivery and overall customer experience, instant scale and increased customer focus, providing the customer with a delivery method they want. Adepra services follow those principals. In fact Adepra's services have been recognised by receiving nominations from our clients for many awards over the last three years including the Credit Today Awards 2007 for all the reasons set out above (see Annex)

Ofcom's proposed revisions cause concern for Adepra for the following reasons:

- (a) Auto-resolution is seen as a valuable tool by call recipients with over 85% utilising it to resolve a payment issue, a figure that rises to 94% where a call is fraud related.
- (b) Adepra does not use Answer Machine Detection (AMD) technology in the UK for precisely the reasons stated in 1.21.3. The 20% failure rate reported by the industry in testing is considered contrary to our high levels of customer satisfaction delivery. Adepra does not recognise the term "call steering" which is associated with negative consumer contact rather than the positive interaction process that Adepra employs in consumer communications. In that regard nothing is "steered".

- (c) The scripts utilised by Adepra customers all identify themselves by the entity known to the consumer, for example the bank or credit card provider name, or the brand/product name which the service is offered.
- (d) The definition of a silent call is where a dialler has attempted a number, the recipient has answered, however due to the lack of an agent being available at that precise moment they hear only silence, the OFCOM guidelines of March 2006 stated that to prevent this silence a dialler must have the ability to deliver a message stating who the call has been made from. If no agent is available within 3 seconds OFCOM guidelines state that the dialler hang-up or abandon the call. When Adepra calls on behalf of our customers the script begins the moment the call is answered and delivers the initial prompt telling the recipient who the call is from. Therefore, Adepra does not make a silent call or abandon one and as such complies with all OFCOM guidelines.
- (e) Adepra presents the customers preferred CLI in all our outbound calling activities.

Question 1 — Adepra does support the general principal that there should be greater clarity around the application of the rules for compliance by call centres provided that they reflect the points made above. In principal Adepra does agree that the recommendations outlined in Table 1 do provide clarity over the existing recommendations

Question 2 – Adepra does not agree with Ofcom's proposed approach determining all automated messages will constitute misuse. The public and service benefits are overwhelming with the types of services that Adepra offers. Ofcom should further consider that the majority of Adepra clients are regulated by the Financial Services Authority with respect to the integrity of its systems and how services are outsourced to companies such as Adepra as well as compliance with privacy and data protection.

Adepra recognises that there are some customers who prefer to be contacted by a human advisor. Adepra acknowledges this and provides direct telephone numbers early within our call flows for the contact centre. This enables the customer to call and engage in a person to person interaction and prevent further automated calls. These customers do not suffer from silent or abandoned calls. No harm or prejudice is caused to them by being approached by Adepra and customer choice is respected and upheld at all times.

It should also be noted that Adepra customers report a complaint level of one-third of that they receive from the use of dialler technology and human resource.

- (i) In respect of paragraph 1.33, Ofcom need to recognise that public benefit is found in automated messages that assist the consumer in managing their account either with late payments, transaction fraud or card activation to prevent fraudulent use. The grounds for making this assertion are set out above.
- (ii) In respect of paragraph 1.34, the overwhelming majority of customers find automated messaging with respect to payment obligations helpful and less intrusive and intimidating than a human caller. The Credit Today Awards 2007 reflected this with over 80% of those surveyed stating that the use of this type of call was effective and efficient and easy to understand. It is this public acceptance of such calls that has resulted in Adepra's customers expanding not only the volume of automated calls made but also the number of different applications that employ this technology. In contrast to the limited anecdotal evidence provided by Ofcom in 1.34 Adepra has provided details of its customer's metrics regarding the acceptability of automated calls with Consumers.
- (iii) Also, in respect of 1.34, Adepra does not agree that the use of an automated technology would prejudice a Consumer's privacy in the way inferred for two reasons:

- a. there is no difference in the identification method used whether it is an automated call or a human call-centre agent. In both scenarios the identification of the institution calling is the same; and
 - b. the same verification procedure should be followed, whether by a human agent or an automated call, to determine that the call recipient is the right party
 - c. the identification of the institution does not necessarily reveal the nature of the call, especially in a first-party context (i.e. where the Call recipient has a business relationship with a financial institution such as a bank, building society or credit card provider).
- (iv) In respect of paragraph 1.36, we do not see any evidence that this type of technology is used to “massage” abandoned call figures. As stated previously, the technology available is superior to existing “dialler” technology because it does not result in abandoned calls. Because the interaction is automated there is no need for a call to be abandoned.
- (v) In respect of paragraph 1.37, the statement that a debtor’s privacy “may be jeopardised” by an automated call (as opposed to one from a human agent) is illogical. Assuming that the same call-recipient verification procedures are adopted by either a human agent or automated call the debtor’s privacy is protected and the outcome is the same. We note that Ofcom is not proposing that payment reminder calls made by human agents should be considered as “misuse” and for the reasons stated in this paragraph do not believe that automated calls should be treated any differently. We would also like to reiterate the other general points surrounding data privacy that we have made elsewhere in the document, such as the security measures Adepra takes in respect of data protection and the “black-box” nature of the technology, which means less human-intervention in handling of data.
- (vi) In respect of paragraph 1.38, we disagree that the use of automated technology such as Adepra does not offer anything extra other than a cost advantage. While there is a cost advantage (which enables our clients product offerings to be more competitive in the market place) there are other benefits to the consumer e.g.
- a. Consumers treat such calls as a customer service proposition as they provide timely reminders over traditional contact methods such as letters
 - b. As the call interaction is automated, and need not involve a human-agent, Consumers feel less “embarrassed” in payment reminder situations.
 - c. The fact that this technology is scale-able means that our clients can react more quickly to events than they can with a fixed-capacity human operated call centre. This is obviously advantageous in situations of increased fraud patterns and other scenarios where a consumer is at risk of fraud or identity theft.
- (vii) Also in respect of paragraph 1.38, Adepra does not follow the logic that as such technologies are intrinsically scale-able that they automatically are more prone to abuse. In this argument the dynamics are the same whether a human-call centre increases capacity (either through more operatives or expanding dialler usage) versus an automated technology such as Adepra’s. With regard to the question of “what happens when a customer presses “1” ...and no one is there” we would argue that, notwithstanding the fact that Adepra’s technology actually reduces significantly the need for human agent intervention, the existing rules with regard to abandoned calls are sufficient to cover this scenario if it results in an abandoned call. However, in actual fact at that stage in the call process there is actually no need for a call to be abandoned since it has in actuality become an inbound call to the call-centre.

- (viii) Adepra do not believe that their services amount to call steering or indeed are services which Ofcom intended to cover by these proposals in any event and would welcome discussing this further with Ofcom and seeking further clarity. Please see our comments at (b) above.
- (ix) It should be remembered that in the case of payment reminder applications the reason that a call has been initiated is because the intended call-recipient, by not meeting a financial obligation, has breached a contract. In most cases, this is caused by simple forgetfulness and an automated call provides a mechanism by which the debtor can rectify the situation in a non-judgemental interaction. However, it would be wrong for Ofcom to tie the hands of the financial institution seeking to recover an outstanding obligation that is legally due.
- (x) Traditional methods of contact, in payment reminder situations, are nowadays unsatisfactory e.g. reminder letters, due to the low response rate achieved. Automated calling provides a timely reminder and achieves a better response rate while allowing the consumer more flexible options for resolution e.g. the ability to pay by phone at the time of the call (as opposed to having to remember to “put the cheque in the post”).

Whilst many customer contracts enable them to be contacted in the manner that they are by Adepra it would be wrong to only govern how a customer is contacted through a contractual arrangement as this will never keep up with customer beneficial technological developments which have not been anticipated by the contract. In reality if the customer were to be asked for consent to such changes then no such changes would ever be introduced. The main loser with this would be the consumer.

Question 3 – Adepra does not believe that it is possible to make a one size fits all statement about what fits the public interest test other than to recognise that (i) if a service generates a call abandon rate or silent calls beyond that which Ofcom have stated as acceptable and (ii) if the number of complaints received about the service is disproportionate to the benefits of that service and out of scale to the number of contacted parties, it is probably a misuse. Adepra services receive little or no complaints and therefore this test is pragmatic and sensible. For Ofcom to take a more robust approach to this would create additional cost passed on to the consumer and a lower service level and an increase in service disruption. As an example if a consumer were contacted immediately following a suspected fraudulent transaction on their credit card, which is a service offered by Adepra, then they would surely prefer this and the ability to self service themselves by either assuring the credit card provider that it was in fact their transaction (thus preventing any unnecessary spending bars being placed on the account) or by speaking directly and more immediately to a fraud analyst who will prevent any further fraud, rather than a delay whilst waiting for a human call or a letter to arrive from the credit card provider asking them to call the fraud department about the transaction.

Question 4 – for reasons stated already we believe that the Adepra auto-resolution service does not constitute call steering and that it is not always possible to get consent from customers for new innovative changes bearing in mind:

- (i) the large volume of customers who would have to be approached for consent; and
- (ii) the costs of doing so; and
- (iii) the difficulties of managing who has consented and who has not; and
- (iv) trying to educate to customers what the benefits are which may not be easily understood by customers prior to them experiencing contact in the manner that Adepra contact them.

Adepra are not aware of a general practice of allowing customers to determine the nature of non-marketing communications. In support of this in the majority of credit agreements the organisation provides a broad statement to the customer that the customer accepts with all other terms that the organisation may make any contact it deems reasonable in the event that

the organisation perceives there is a form of fraud or credit risk. Adepra believe that the Consumer is already adequately protected by the regulatory framework our clients operate within. Ofcom should not seek to discriminate between automated and non-automated contact for the services described in this response as there is no difference from a regulatory point of view.

Question 5 – Adepra agrees with Ofcom’s clarification on this matter

3. Conclusion

In summary, Adepra's position is that 'call steering' as defined by Ofcom does not adequately cover, nor do justice to, the type of interactive call resolution technology offered by Adepra. In fact the manner in which call steering is used by Ofcom does suggest something negative and the services offered by Adepra are not received in a negative way by its clients or called parties. Adepra believes that the current regulations surrounding silent and abandoned calls are sufficient to cater for the current innovations in outbound calling technology and the regulatory requirements that arise from that. The existing regulatory framework is fit for the purpose and there is no need to take it further.

Adepra has been recognised by both the Sunday Times Tech Track 100 and Deloitte Fast 50 Awards as one of the most innovative and fastest growing Company's in the UK and has had demonstrable success in winning Clients in the UK, US and Europe. This success has been achieved by providing leading edge technology that provides superior benefits over traditional outbound calling methods and technology. In turn, our Clients are able to provide their customers with improved customer service and more responsive communication for time-critical issues such as late-payment reminders and credit-card fraud verification.

It should be noted that Ofcom's proposals for regulation of call-steering go well beyond the regulation applied elsewhere in the world especially North America and Europe. In doing so, Ofcom risks not only the ability of UK financial institutions to communicate with their customers responsibly but also the survival of innovative companies such as Adepra and its UK competitors, and ultimately the reputation of "UK plc" as a home for similarly innovative organisations. This seems at odds with the general policy goals of the UK government and the need to develop a level playing field for competition both within the UK but also with respect to overseas organisations. Data security is not prejudiced by the use of automated call systems when compared to human call centres and many of our clients are already regulated in respect of the FSA and MiFid in respect of the risks and manner in which it contacts its clients and processes their information. Adepra are looking in parallel at how they need to interface with the UK government and Brussels in respect of ensuring that the services Adepra offers are maintained and not prejudiced through regulation which may hinder competition and service delivery. If Ofcom were to impose any further regulation the only winners would be human call centres and certainly none of Adepra's clients or the consumer.

Adepra would welcome the opportunity to work with Ofcom to clarify how the current regime is sufficient for the purposes of regulating the current environment and how that regime can be applied to 'call-steering' technology.

Adepra Limited 30th January 2008

Adepra

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