

Alliance & Leicester Plc Arrears Management

Response to Ofcom's Revised statement of policy on the persistent misuse of an electronic communications network or service

Q1. Do you agree that the proposed changes make for a clearer set of rules that enable compliance to be achieved with a greater degree of certainty?

Yes.

Q2. Do you agree with Ofcom's approach to determining whether the use of automated messages constitutes misuse?

We strongly disagree with Ofcom's approach that all uses of automated messages constitute misuse.

There is an evident lack of understanding of what 'call steering' technology is and how it works. Many of the reasons for deeming this technology as a form of misuse appear to have been made without fully understanding the potential functionality or made presumptuously based on existing dialler technology or on wide-ranging assumptions about acceptance.

- *2003 Regulations (1.31, 1.32). We strongly disagree and fail to understand Ofcom's conclusion that "persistent use" of automated calling systems to transmit recorded messages that are non-marketing messages is "persistent misuse". It is our view that the intention of the 2003 regulations was not to restrict technological innovation or the use of automated calls where an existing relationship exists between the caller and the called party. Non-marketing messages have huge consumer benefits ranging from Fraud or suspicious use alerts, to reminders or renewal calls; these type of calls could lead to customers avoiding charges, mitigate abuse of accounts by third parties and remove customer liability or avoid stressful situations. Reminder or alert calls will be welcomed by many customers in the current climate where identity theft is common and these types of calls are not exclusive to financial services.*
- *Customer Adoption (1.33, 1.34, 1.35). Pro-active customer management strategies such as use of automated messages offers flexibility to the consumer and can only be seen in a positive manner. As the age and technology literacy profile of consumers changes, many would prefer not to deal in person with*

service suppliers. This may be easier and even preferable for consumers, especially in debt issues which often carry a stigma.

- Assumptions on Misuse (1.30, 1.36, 1.37, 1.38). These are seemingly inaccurate assumptions, again made without the necessary level of understanding about 'call steering' technology. As any call placed and answered would be handled, albeit an interactive recorded message, the assumption that Silent Calls will occur does not stand up to scrutiny. Holding messages used on diallers are distinct from 'call steering' and should not be treated the same way. Any reduction in calls placed or received by agents would not massage Abandon Rate figures; if anything handling calls passed form 'call steering' would require even closer management of service levels. Privacy of Information, highlighted as an issue in debt collection calls but actually applicable to any call types, would only notionally be risked when interacting within 'call steering' technology. The risks of identity impersonation remain regardless of whether a live operator is used or not, and the impersonating of another person is an illegal act in itself, and A&L would be fully compliant with the Data Protection Act which governs this outside the remit of Ofcom. On Cost, this may well be an imperative for many businesses, but the functionality and ability that this technology brings allows more flexible and dynamic approaches to customer management. There may also be a benefit to consumers in the long run if both operating costs and losses are minimised and not passed on.
- There is a fairly uninformed set of statements (1.38) culminating in the assumption that with 'call steering' it is "almost inevitable that it will be prone to abuse". This is a sweeping statement that underlines the need to understand the technology and how it is managed in a business environment. All technology is open to abuse, what is needed is to define what is not acceptable.

Overall, there is recognition that customer experience will not exclusively be poor, but the sample of experience needs to be pulled exclusively from those that have has experience of 'call steering' and not from a general pool of feedback pertaining to all outbound contact. Similarly, an important distinction must be drawn between marketing and non-marketing contact as the two are very different. It is also important to understand the technology fully and to be mindful that all new technology is not inherently a bad thing but a natural process that needs to be governed by agreed standards of behaviour. The caution around misuse is understandable, but the reasoning why 'call steering' represents misuse lacks evidence or certainty based in fact.

Q3. Do you believe that it is possible to define objective criteria for applying the public interest test?

Given our responses to Q2 above, we believe a "public interest" test should not be adopted or applied for the purposes of excluding certain uses especially where a contractual relationship exists between an organisation and an individual consumer.

It is our view that the nature of any "public interest" test precludes and undermines the possibility of using automated messages that could otherwise be deemed to be beneficial to the interests of both the organisation and its individual customers. That is to say, the individual interest is not considered.

Under 1.39 Ofcom, imply that the adoption of a defined “public test” would be in the interest of the user, that is, it will allow users to determine if it can use automated messages as a form of communication. We are of the view that the misuse policy is to protect individual consumers from misuse and to that extent any “public interest” test should be framed to include the impact at an individual or customer level. It is unlikely that organisations would adopt or continue using automated messages if it was detrimental to itself or its customer.

Our view is that objective and subjective tests should be used and these are already contained within the existing misuse policy. The policy adequately sets out the behavioural framework and we believe those standards are equally applicable to the use of automated messages.

Q4. Do you believe that outbound call steering should only be used with customers who have given their prior consent?

Experience shows that if the general public is given the option of opting in to a new service/product they will always choose not to where they have not previously experienced or do not understand what is on offer, without full consideration of how it may be in their interests. On this basis, new forms of communication using new technologies that are of benefit to customers would never gain a foothold in the communication strategy for organisations.

To provide an opt in option for every new communication method is not feasible as this would add unnecessary steps to the application process for a new product/service that would prove arduous, unwieldy and irritating for the customer. Likewise, having to canvas an existing customer base upon the introduction of each new communication method would not be a positive experience for consumers.

Q5. Do you agree with Ofcom’s clarification that the exploitation of all types of revenue-sharing numbers represents a form of misuse?

Yes.