



MRS Regulations for Use of Predictive Diallers

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MRS is the world's largest association for people and organisations that provide or use market, social and opinion research, business intelligence and customer insight.



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INTRODUCTION

These Regulations have been produced to aid MRS members in applying Sections 128 to 131 of the Communications Act 2003 which gave the Office of Communications (Ofcom) powers to take action against persons or companies who persistently misuse electronic communications networks or services in any way that causes or is likely to cause unnecessary annoyance, inconvenience or anxiety.

The Regulations were produced by MRS following the publication by Ofcom of its revised "Statement of policy on the persistent misuse of an electronic communications network or electronic communications service" on 1 March 2006. The Regulations were further amended following the publication of revised statements on 10 September 2008 and 20 December 2010

It should be noted that within the Statement of Policy a list of examples of 'misuse' have been given. Six examples are given:

- misuse of automatic calling systems;
- misuse by making silent or abandoned calls;
- number-scanning;
- misuse of a calling line identification facility;
- misuse for dishonest gain; and
- misuse of allocated telephone numbers.

These Regulations address in particular the issue of misuse by making silent or abandoned calls.

It is important to understand that although these Regulations provide advice on the implications of the Statement of Policy it is not, and should not be regarded as, a legal document. The definitive text is the statement itself.

Furthermore, there are other pieces of legislation which regulate the use of telecommunications equipment. For example, under the Privacy and Electronic Communications (EC Directive) Regulations 2003 (PEC Regulations) it is an offence to use automated calling systems to make unsolicited direct marketing calls which do not consist of live speech. An example of such a call is a recorded message, where no

operator is present. It is recommended that the PEC Regulations are read in conjunction with these MRS Regulations and the Ofcom statement.

DEFINITIONS

- 1) For the purposes of these Regulations, predictive dialler shall mean any equipment capable of dialling a telephone number prior to a live operator being available to exclusively handle the call.
- 2) For the purposes of these Regulations, a live call is where a connection is established and the call answered by a live individual.
- 3) For the purposes of these Regulations, an abandoned call is where a connection is established but terminated by its originator in circumstances where the call is answered by a live individual.
- 4) For the purposes of these Regulations, a silent call is a type of abandoned call where the person called hears nothing on answering the phone and has no means of establishing whether anyone is at the other end.
- 5) For the purposes of these Regulations, a live operator is one where a person is present to talk with an individual who answers a call and does not include pre-recorded voice messages.
- 6) For the purposes of these regulations, the abandoned call rate is calculated according to the following formula, where abandoned calls are x and live calls are y :

$$\frac{x}{x+y} \times \frac{100}{1}$$

STATUS OF THE REGULATIONS

These Regulations are issued to assist members adhere to rule A1 of the MRS Code of Conduct (revised 2010), that is:

Research must conform to the national and international legislation relevant to a given project including in particular the Data Protection Act 1998 or other comparable legislation applicable outside the UK.

In this context, the applicable legislation is the Communications Act 2003 and the Privacy and Electronic Communications (EC Directive) Regulations 2003.

NORMATIVE REFERENCES

These Regulations should be read in conjunction with the MRS Code of Conduct and associated guidelines and regulations developed by MRS. Other existing rules which govern telephone research must be adhered to.

For more information about the Code of Conduct and the Regulations please contact the MRS Standards department (codeline@mrs.org.uk), or visit the MRS website www.mrs.org.uk/code.htm

THE REGULATIONS

- 1) Members must ensure their predictive diallers are adjusted to ensure a minimum ring time of 15 seconds for all calls before the call is terminated.
- 2) The predictive dialler must at all times be adjusted to ensure that the rate of calls abandoned is no more than 3% of live calls calculated per campaign (i.e. across call centres) or per call centre (i.e. across campaigns) over a 24 hour period (between midnight and midnight on a calendar day), and must include a reasoned estimate of Answer Machine Detection (AMD) false positives, where used.
- 3) All predictive dialler users including AMD users may exclude a reasoned estimate of calls abandoned to answer machines from the abandoned call rate.
- 4) Statistics which record compliance must be created daily across all call centres operating for a research organisation. Monitoring must be sufficient to identify any single call centre or predictive dialler which consistently generates more than 3% of abandoned calls in the UK.
- 5) Members must maintain an up to date archive of predictive dialler statistics which clearly demonstrate compliance with these Regulations. This must include a daily summary of:
 - a. The number of calls attempted
 - b. The number of silent calls generated by the dialling equipment.
- 6) Records of predictive dialler statistics (in summary form) which clearly demonstrate compliance with Regulation 2 must be retained for a minimum of 6 months and must be available for inspection by all centres that use predictive diallers. The statistics can be stored in either electronic or manual format; and can be kept centrally or across call centres.
- 7) Members must ensure that written procedures are available which detail the following:
 - a. How predictive diallers are set;
 - b. How silent call generation is monitored;
 - c. How silent call complaints are dealt with.

- 8) Where predictive diallers are used members must provide relevant caller line identification (CLI) on all outbound calls. A return call to the CLI number presented must not be charged at a higher rate than the national call rate.
- 9) If a research organisation is engaged in a non-research project, any call made by the called person to the contact number provided must not be used as an opportunity to market to that person, without that person's consent.
- 10) In the event of an abandoned call, a very brief recorded information message must be played no later than two seconds after the telephone has been picked up or within two seconds of the call being answered, which:
 - a. Identifies the company on whose behalf the call was made;
 - b. Offers the called person the possibility of declining to receive further calls from the company by contacting a Special Services (080 – no charge) or a Special Services basic rate (0845 only) or a Geographic Number (01/02) or a UK wide Number at a geographic rate (03) number;
 - c. Includes no marketing content and is not used as an opportunity to market to the called person.
- 11) "Within two seconds of the call being answered" means either:
 - a. no later than two seconds after the telephone has been picked up; or
 - b. no later than two seconds after an individual begins to speak (or "start of salutation")whichever is more applicable to the technology deployed.
- 12) When an abandoned call has been made to a particular number, any repeat calls to that number in the following 72 hours must be made with the guaranteed presence a live operator.
- 13) When a call has been identified by AMD equipment as being picked up by an answer machine (including AMD false positives), any repeat calls to that specific number within the same 24 hour period may only be made with the guaranteed presence of a live operator.



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