

The use of dialers and messaging systems in the Collections marketplace in the US

This paper is based on a submission prepared for the Federal Trade Commission at their request in September 2007



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1. Introduction

Sytel thanks the FTC for encouraging Sytel to prepare this paper on the use of dialers in Collections in the US.

In 2001-2002 the FTC and the FCC were asked to consider how predictive dialers were being used in the US, and decide what controls, if any, on their use were appropriate. The main focus of attention was telemarketing activities. When rulings were subsequently introduced, a number of market sectors, including Collections were specifically exempt from them.

This paper suggests that that there is a good case for considering whether some dialing rules, either self-regulatory or backed by legislation, should be considered for the Collections marketplace in the US. If any dialing rules were to be considered for Collections, then it might be argued that the rules introduced for telemarketing i.e. a maximum limit on nuisance calls (N.B. for definitions of all call types see **Appendix 2**) of 3% are simply inappropriate for Collections on the grounds that the caller is not attempting to make a sale but rather to collect money that is owing and that the impact of nuisance calls should be seen in this light. But this is not the same thing as contending that predictive dialers should be used without any kind of control whatsoever and we don't believe that any responsible body with an interest in this market holds such a view.

In the past two years the UK telcoms regulator, Ofcom, has brought in similar dialing rules to those enacted for telemarketing in the US. They apply to all sectors including Collections. The industry in the UK has responded well to this change. Sytel is not suggesting that the Collections industry in the US should necessarily follow this lead but believes there are strong reasons to reconsider whether some kind of cap on nuisance calls in the US in Collections is now justified.

2. The use of dialers in Collections in the US

Predictive dialers are seen as an essential tool in Collections. They raise the productivity of agents and can make the difference between running a Collections operation at a profit, versus a loss. A simplistic but perhaps useful way to characterise the market is to say that it has three segments, as below.

<i>Type of debt</i>	<i>Characteristics</i>	<i>Telephony Contact</i>
Soft Collections	Typically regular payers who have missed a payment	Divided opinion as to how to handle such debt. Some call centers will use Virtual Agents (see below). Others will insist on having a Live agent available to talk to the called party
Low value and older debt	Typically a maximum value of several hundreds of dollars	Often seen as too expensive to collect by personal contact, so targeted using Virtual Agents
High value debt	Say any amount due that is in excess of \$500	Such calls are usually made with campaigns staffed with Live Agents

These segments are dialed in one of two ways.

Virtual Agents. A call is made with technology only, using an Interactive Voice Response (IVR) unit (see **Appendix 4**). When the called party answers, an automated message is played, e.g. "This is a call for Mr Brown, if you are Mr Brown please press 1....etc" with possible scope for transfer to a Live Agent if Mr Brown so desires, request a callback from a Live Agent at a later time, or perhaps use an automated payment facility.

Live Agents. The second way is to run a campaign staffed with Live Agents, where the intention is try and connect a Live Agent with someone when they pick up the phone.

Any debate around the use of Virtual Agents would be seen by Sytel as not relating to its general legitimacy but as to what exclusions might apply, for example based on frequency of contact, amount owed or perhaps type of debt. To an extent this market is self-policing. For example in the case of Soft Collections, a bank might be reluctant to use IVR (or at least regular instances of it) to a customer who had overlooked a payment in one month only.

Predictive dialing techniques can be used to run Virtual Agent campaigns with the possibility of more live calls than can be handled by the system. This can lead to nuisance calls. We believe

that the extent of nuisance calls is limited. In any event, rules to control them should follow the same rules as any adopted for campaigns running Live Agents.

Predictive campaigns run using Live Agents are widespread in the industry and have the tendency to lead to much greater levels of nuisance calls than campaigns using virtual agents. The reason is that the cost of Live Agents is a very high multiple of the cost of Virtual Agents, and Collections agencies will be much more vigilant in looking for a return on their investment, by way of high productivity from these agents. So dialers will be driven harder with more nuisance calls as a by-product (see espec. **Appendix 1**).

Collections managers running predictive campaigns with Live Agents have conflicting objectives. On the one hand they want agents to spend as much time as possible in each hour talking rather than waiting for another live call, yet they also want to restrict the levels of nuisance calls that this can bring. Because any caller who receives a nuisance call is likely to be less responsive next time he is called. To the extent that the use of IVR is acceptable, then the dialer could choose to route all calls that can't be handled by a Live Agent, to a Virtual Agent. IVR technology is being used today to call debtors in the US and Sytel expects a significant takeup of it over the next few years as Automated Dialer and Recorded Message Player (ADRMP) systems are replaced (see **Appendix 4**).

Nuisance calls - definitions

The alternative to the use of IVR in a campaign with Live Agents, is for the dialer to handle its over dialing by registering a nuisance call. This can happen in one of three ways.

1. **Abandonment of live call.** The call is quickly abandoned with perhaps a short message being played (as distinct from IVR). For example see Abandoned Call Messages in **Appendix 3**
2. **Early hangup.** A dialer might dial say 4 numbers every time an agent becomes available. As soon as someone answers, then other ringing calls are terminated (unless another agent has become available in the meantime), even though they have been ringing for a few seconds only. This is a common practice in dialing and gets some legitimacy from the action of the California Public Utilities Commission (CPUC) who were unaware of this kind of activity when, predating the FTC/FCC, they set their own rules for dialers in California.
3. **Hold Queues.** Live calls are put into hold queues waiting for an agent to become available. This practice is less common in Collections than the other techniques.

On the basis that whatever messages may be played as a way of coping with any over dialing are legitimate, then discussion about nuisance calls in Collections is actually about the extent to which any of these three activities is used.

Measurement of nuisance calls

Following all self-regulatory and governmental codes, nuisance calls are measured relative to live calls, not total calls. The following example, which is illustrative only, shows how the rate for nuisance calls is measured.

Example

- Say there are 300 calls in all (e.g. no answers etc), and including the following call types
- 100 live calls which are put through immediately to a Live Agent

and then three kinds of nuisance call whose incidence is as follows

- 11 live calls which are abandoned
- 3 early hangups
- 4 live calls which are put into hold queues for more than a few seconds, with the probability that some may hang up before an agent becomes available to talk to them

The formula for measuring the rate of nuisance calls in this example is

$$\frac{\text{number of nuisance calls}}{\text{live calls transferred to agents} + \text{nuisance calls}} \times \frac{100}{1}$$

And this gives...

$$\frac{11 + 3^1 + 4}{100 + 11 + 3^1 + 4} \times \frac{100}{1}$$

= 15.3% nuisance call rate

Dialer designs differ widely. Some dialers in Collections will employ all of these techniques. Others will restrict themselves to just two of them or, as in the case of our own dialer, just the first, namely calls abandoned by the dialer. No matter how many of these techniques are used, an uncontrolled dialer has the potential to rack up an effectively limitless number of nuisance calls.

Nuisance calls in collections

So what levels of nuisance calls are observable in Collections in the US. We are not aware of any surveys but would like to comment as follows

- What the past decade of predictive dialer use in all countries has shown is that when there are no controls of any sort, either governmental or say self-regulatory, this can lead to very high levels of nuisance calls on the part of a significant number of market

¹ There is a case for lowering this value for early hangups to 1 in the calculation to reflect an answered call rate of 1 in 3.

participants. But the pattern can be very uneven. For example a survey of the larger financial organizations in the US doing collections is likely to show very low rates of nuisance calls. The laws of mathematics are kind when large numbers of agents are deployed on single campaigns; high productivity can be achieved with very few nuisance calls. But large campaigns are not typical of the industry. At the other end of the scale with smaller users, Sytel has taken on Collections business in the US where the prior dialing experience of the customers in question has been to generate one nuisance call for every live call taken up quickly by a Live Agent. In other words, following the formula above.. $(100 \text{ nuisance calls} / (100 \text{ nuisance calls} + 100 \text{ live calls})) \times 100 / 1$ giving a 50% nuisance rate.

- Many users are simply unaware of the levels of nuisance calls they generate. Sytel often hears reports of dialers used in Collections where the recorded abandoned call rate is around the 1% level, and users understandably wonder what all the fuss is about. Except in quite exceptional conditions, with high numbers of agents, no dialer can deliver excellent predictive performance at this level of nuisance calls. Closer examination almost always shows large numbers of nuisance calls unaccounted for. The main culprit is usually **early hangups** described in Section 2 above. The FTC lost no time in outlawing such calls in 2002 and it is surprising that any dialer vendor still allows this practice.
- In the absence of controls or standards of any kind, there is often a parallel lack of, (or at least use of) effective monitoring systems of nuisance call rates². Given a mandate from management to maximize contacts per hour, or to reduce wait times between calls for Live Agents, it is hardly surprising that some Collections agencies should choose to up their dialing rates, and hence nuisance call rates, without being aware of the consequences.
- Sytel sells via business partners into the Collections marketplace in the U.S. and is aware of the widespread use of dialers there. Apart from large campaigns, our view is that use of dialers in Collections is similar to their general use in telemarketing, before the FTC/FCC set controls in that sector. As was the case for telemarketing back in say 2001, this means an average nuisance call rate that is certainly well into double figures.³

3. Is there a case for a dialer standard in Collections in the US?

Sytel's view is that any civilized society when technology is deployed in potentially harmful or disturbing ways there should be agreed and practical limits which protect consumers whilst at the

² It is worth noting that many of the dialers used in Collections are also widely used in Telemarketing. The ability to do effective monitoring is certainly there but not always exposed to users in Collections.

³ It would certainly help to see a proper survey done of actual nuisance call rates in the industry, but experience of similar surveys done in the past, in both the UK and the US, means a note of warning. Some monitoring systems do not cover all nuisance call types, for example live calls held in hold queues. And the measurement basis for nuisance calls should always be live calls and not total calls. Use of the latter understates actual nuisance calls by a factor of 5 (at a 20% live call rate) or more.

same time allow industry to reap productivity gains. This doesn't mean that the Collections industry should be asked to observe the nuisance call limits imposed on the telemarketing industry – though the UK Collections industry has responded well to the regulations set by Ofcom. Nor can it possibly mean in our view that dialers should be used in an unconstrained way.

In 2002 the predictive dialer industry was given the challenge of how to cope with the strict controls set for their products in telemarketing. An analysis of the white papers and product announcements since then would rightly conclude, in our view, that the dialer industry, in the main, has been able to provide their customers with the ability to achieve compliance. So the means is there to offer a similar capability in Collections, at whatever nuisance call rates might be agreed or set.

Compliance means restricting productivity compared with what many users are used to. It doesn't matter how good the dialer design is. If a compliant limit of 3% nuisance calls is set, any dialer will take a hit on productivity, compared with dialing at some higher rate of nuisance calls. Sytel was asked to co-author the definition of predictive dialing that appears in the standard telephone reference guide in the US, Newton's Telecom Dictionary, 23rd edition. This is included as **Appendix 1** and includes some straight talking about what can actually be achieved under compliance.

The world of predictive dialing, including post compliance in telemarketing, has always had a tendency towards overstatement, with claims of productivity increases which are either unreal or achievable only in very restricted circumstances, or at high levels of nuisance calls. Hence it would not surprise Sytel to see claims being made that the kinds of performance levels quoted in **Appendix 1** can be easily surpassed with very low nuisance call rates. Dialer vendors and other interested parties need to resist the temptation to make such claims since regulators might conclude that the right thing to do is, in any case, impose tough rules expecting that they can be adhered to easily with no loss of productivity.

In our view, the Collections industry would be right to be concerned about any limit that might be set on their dialing practices. But we also believe that the industry should be asked to have an honest look at their practices and that there should be moves to restrict some of the more undesirable dialing practices that we have alluded to above.

The Collections industry in the US gave birth to the predictive dialing industry and is still today the number one contributor to predictive dialer sales worldwide. Some commentators may see the lack of any standard for dialing in the industry as a boon to the industry. But it has also held back innovation. Many predictive dialers used in the industry are simply crude and not optimized to achieve efficient dialing combined with low levels of nuisance call rates (for example even today it is not uncommon to find dialers in the industry which use algorithms based on trunk/agent ratios; e.g. an agent becomes available to take a call, so the dialer dials additional calls using a line ratio of say 2 or 3 or more). An extension of dialer controls to the Collections industry would, in our view, kick-start a new round of innovation in predictive dialing and yield benefits not just in Collections in the US but in all other markets where dialers are used.

4. How might a dialer standard for Collections look?

From the previous section there are clearly three classes of call that can be deemed nuisance calls and which should be restricted. To repeat, these are..

- Live calls **abandoned** by the dialer
- Early **hangups**
- Live calls placed in **hold queues**

As we have also discussed there is a fourth class of call handling that can be used to handle a live call when no agent is available, namely IVR. In practice this technique could be used to handle all calls that can't be connected to an agent, and potentially lead to a very low or even zero nuisance call rate. We expect use of this technique to grow in the future but we also expect as it does so, there will be a need for codes of practice or regulation to prevent abusive practices (and avoid the message-blasting excesses that have occurred with ADRMP – see **Appendix 3**).

On the three classes of nuisance call that we have identified, we believe that regulations should be framed in a similar way to those that apply for telemarketing.

This would mean an end to early hangups and setting a minimum ring time of 15 seconds. It would also mean an end to placing live calls in hold queues. Collections managers are disinclined to place calls on hold anyway, because consumers are likely to hang up when they are kept waiting for more than a few seconds. When this happens the abuse goes unrecorded since the consumer hung up, not the dialer.

Nuisance calls would then be limited to call abandonment only. This doesn't of course limit the extent to which dialer pacing can be increased in the search for additional productivity. The issue then becomes one of what the limit for abandoned calls should be. It is clear from the UK experience that a nuisance call rate of 3% is manageable in Collections. But the US is not the UK. The industry is longer established in the US and competition over the years has eroded margins in some areas to the point where dialer productivity, as we noted earlier, may be the difference between a loss and a profit for a Collections agency.

5. One example of compliance

Sytel is well known around the world as a strong proponent of responsible dialing and has a long track record of working with both national marketing organizations and also government regulators, advising them on appropriate rules for dialers. For example, in April 2002 Sytel was invited by the Federal Trade Commission (FTC)⁴ to be the dialer industry representative at its regulatory hearings held in Washington.

⁴ Government regulations in the US have been set by the FTC and also the Federal Communications Commission (FCC), who each monitor different market segments. Their regulations are the same.

We have always taken the view that proper dialer design should allow for good if not excellent performance under compliance conditions. We took the decision back in the 1990s, before any government legislation was enacted, to set a limit to nuisance calls in all sectors and countries. This followed the codes of practice set by national direct marketing organizations in countries such as the UK and the US, which included a maximum nuisance call rate of 5%. When maximum permissible rates have been set lower than this, we enforce these lower limits. This means that all our users have the assurance that the dialer will not generate excess nuisance calls and that there is no scope whatsoever for supervisors, inadvertently or otherwise, to interfere with dialer settings and incur additional nuisance calls.

The vast majority of our users are very happy with this policy and performance they get from the dialer. We sometimes get pressure from prospects and customers in competitive situations to relax this strategy on the basis that users know best, or that there are worries about performance. These worries tend to go away once users get some experience of working under compliance.

In the Collections marketplace in the US there is a very strong view among some users (more so than in other outbound markets), that the lack of federal restrictions literally means that users are free to do as they please and that there should be no restrictions whatsoever on dialer pacing. This has some negative business impact on the resellers we work with. We would hope never to have to give into the pressure to deregulate our dialer in consequence, and would welcome a consensus between consumers, the Collections industry and regulators, which set sensible limits for the Collections marketplace.

We do not speak for the dialer industry but believe that the majority of dialer companies would strongly welcome some guidelines or regulations that allowed and/or encouraged their products to be used in a more orderly way.

We hope that this paper will be seen as an attempt to set out what some of the major dialing issues are in the Collections industry in the US and hence encourage debate so that a responsible consensus can be reached as to how dialers should be used there.

Sytel can confirm that any consensus that is reached on standards will be immediately adopted by it.

Michael McKinlay
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Appendix 1. Definition of predictive dialing

This definition is supplied from Newton's Telecom Dictionary.

"An automated, computerized way (hardware and software) of making many outbound calls without people dialing the calls and then, once the called person has answered, passing the calls to a live operator.

Here's the story: Imagine a bunch of operators having to call a bunch of people. Those calls may be for Collections. They may be for employee callups to work. They may be for alumnae fund raising.

When it's done manually, here's how it works. Before each call, operators spend time reviewing paper records or computer terminal screens, selecting the person to be called, finding the phone number, dialing the number, listening to rings, listening to phone company intercepts, busy signals and answering machines. Operators also spend time updating the records after each call.

Predictive dialing automates this process, with the computer choosing the person to be called and the computer dialing the number and only passing the call to an operator when a real live human being answers.

In a well run manual setup, with just one trunk per agent, then with luck you might reach 25 minutes talk time in the hour, rarely beyond this. And with progressive dialing (again one trunk per agent but cutting out setup time) you might reach as many as 35 minutes in the hour, occasionally beyond that.

Productivity gains with predictive dialers come in two ways:

1. First is the bit that commonly is labelled "call progress detection". The computerized predictive dialer does its best to intercept and screen out all calls other than live ones i.e. answering machines, busy signals, network busy signals, non-completed calls, operator intercepts etc. But it's not a perfect process and some non-live calls will creep through to be dispatched by the agent.
2. Second, the major benefit in predictive dialing comes from the actual pace of dialing, or the numbers of calls dialed relative to waiting agents.

In the days before the Feds cracked down on predictive dialing in the US, it was common to talk about dialers achieving up to 50-55 minutes talk time in the hour. But no more, except under quite exceptional circumstances. Even with the best dialers, finely-tuned to cope with the new compliance rules, getting much more than 40-45 minutes in the hour is exceptional, and most outbound shops will be under 40 minutes in the hour, if they are working under compliance.

The US compliance rules for dialers according to the "Final Amended Telemarketing Sales Rule" (that also established the "Do Not Call" register) effective October 1, 2003, specify that

- i. predictive dialers may not abandon more than 3% of calls (measured per day, per campaign).
- ii. telemarketers (including people using predictive dialers) have two seconds to connect you to a live person once you pick up the phone and have finished your greeting, i.e. saying 'hello'.
- iii. And they must let the phone ring for at least 15 seconds before hanging up, if there is no reply.

In some activities, mainly market research and Collections where you often see predictive employed when actually if you just ran in progressive mode you would get at least 35 mins, and sometimes a lot more, because of long talk times. But in telemarketing, 35 mins for progressive would normally be a max, under compliance. Since 2003, other countries have woken up to the need to restrict bad dialer behavior. The UK brought in similar rules in 2006 and regulatory authorities in other countries including mainland Europe and Australia are also planning action.

True predictive dialing should not be confused with automatic dialing. A properly-designed dialer uses complex mathematical algorithms that consider, in real time, the number of available telephone lines, the number of available operators, the probabilities of getting different kinds of call outcome, e.g. no answers, answering machines and live calls, and the distributions for the times that agents spend talking and wrapping up calls.

Some readers of this dictionary accustomed to years of dialer hype will be wondering why the judgment on dialing performance is so bleak, compared with the highs that the industry had been used to. The answer lies in the fact that historically dialers have used a range of devices in order to improve performance, such as putting live calls into hold queues. And nuisance call rates were often much greater than folks admitted to.

The key to good predictive dialers is good design. And that's complicated. It is not enough to monitor all agent and telephony events and run a high speed simulation to calculate whatever. You need to get the design fundamentals right. Unfortunately, even today, many vendors don't go there. And if they do, it is an enormously difficult task given the very limited resources available - i.e. just 3 abandoned calls per 100 live calls. If the live call rate is say 20% (1 call in 5 is answered) then your ration of abandoned calls is 6 per 1000 calls dialed. Use that up too quickly and you are back to progressive dialing. Some people don't like the term "predictive dialing", since they know it's had a "bad rap" in Washington, DC, by being associated with junk phone calls, which is what it often is."

Definition on predictive dialing co-authored by Sytel Limited and Harry Newton and reprinted with the kind permission of Harry Newton from Newton's Telecom Dictionary, 23rd edition, 2007.

Appendix 2. Definitions for call types

Nuisance Call	Any call made by a predictive dialer to a called party where either the called party is not given a reasonable amount of time to answer the phone, or there is no agent available to speak to the called party, immediately. Implementation of some rules as proposed in this paper would effectively make nuisance calls synonymous with abandoned calls.
Silent Call	This term used to refer to calls received by called parties, where the phone was answered and there was just silence on the line. Sometimes used to refer to all classes of nuisance call, including calls abandoned by the dialer and early hang-ups.
Dropped Call/Early Hangup	Used to describe a call that is terminated by a dialer when it has been ringing for less than the minimum ring time of 15 seconds set in most compliance rules, and before a called party has answered. The term dropped call is sometimes used to describe what happens when an abandoned call is made by a dialer; and it is also used sometimes when a called party hangs up because there is no agent available, and before the dialer takes any abandonment action.
Abandoned Call	This term is typically used when a dialer has too many answered calls and not enough agents and so it terminates or abandons calls, hanging up on a live person or called party.
Live Call	A live call is a call made by a dialer that is answered by a person and not by any other means such as an answering machine. N.B. For purposes of calculating the rate of abandoned calls, it is live calls only and not total calls that should be measured in the denominator.

Appendix 3. Messaging techniques and technologies

This paper discusses three kinds of messaging used with dialers. These are as follows:

<i>Type of Message</i>	<i>When Deployed</i>
<p>Automated Dialer and Recorded Message Player (“ADRMP”)</p> <p>The dialer rings a number and plays a message when the phone is answered. The called party is a passive listener and has no opportunity to interrupt the call and talk with an agent.</p>	<p>This technology has been in use for some years in the US in Collections. The use of it has been successfully challenged in the Courts. Continued use of such technology is uncertain.</p>
<p>Interactive Voice Response (IVR)</p> <p>As with ADRMP but the extended capabilities allow the person being called to interact with the system, for example to confirm that they are actually the person being called, or to request a callback from a Live Agent.</p>	<p>This technology is now beginning to be used on a wide scale, replacing ADMRP technology. Sytel expects ongoing discussion in the industry as to the most appropriate way to use such technology.</p>
<p>Abandoned Call Messages</p> <p>“When a call is abandoned within the three (3) percent maximum allowed, a telemarketer must deliver a prerecorded identification message containing only the telemarketer’s name, telephone number, and notification that the call is for ‘telemarketing purposes.” See Appendix 4</p>	<p>This kind of messaging is required by law for telemarketers. It doesn’t apply in Collections, although some agencies may choose to leave such messages anyway, rather than deploy IVR.</p>

Appendix 4. US dialing rules for telemarketing

“Under the new rules, telemarketers must ensure that any technology used to dial telephone numbers abandons no more than three (3) percent of calls answered by a person, measured over a 30-day period. A call will be considered abandoned if it is not transferred to a live sales agent within two (2) seconds of the recipient’s completed greeting. When a call is abandoned within the three (3) percent maximum allowed, a telemarketer must deliver a prerecorded identification message containing only the telemarketer’s name, telephone number, and notification that the call is for ‘telemarketing purposes.’ To allow time for a consumer to answer the phone, the telemarketer must allow the phone to ring for fifteen seconds or four rings before disconnecting any unanswered call.”

Extract from Sec 106 of the FCC Telephone Consumer Protection Act 2003 (TCPA). The same legislation was enacted in the Telemarketing Rule updated by the FTC apart from the ‘30-day’ requirement where the FTC brought their Rule into line with the TCPA in 2006.