

WHITE PAPER

Proactive Contact:

Striking Balance between Compliance and Productivity

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Contact center strategy managers have always had to strike a balance between the requirements of corporate compliance officers and the demands of agents hungry for more opportunities to sell or collect. But in today's volatile environment with new restrictions coming from every direction and technology changing too fast for most of us to keep up, it's harder than ever to toe the line while still generating enough customer contacts to keep a business running.

A New, More Restrictive World

In the wake of the Great Recession businesses face a rising tide of regulations and restrictions on the financial services industry. After a year of preparation, the Bureau of Consumer Financial Protection has started operation amid great expectations that it will change the way Americans interact with financial institutions large and small. As it rolls out new regulations, and as other provisions of the Dodd-Frank Act take effect, expect corporate IT resources to be tied up implementing them for the foreseeable future.

Many existing laws are woefully out of date. The Telephone Consumer Protection Act ("TCPA") was passed in 1991; the Fair Debt Collection Practices Act ("FDCPA") in 1978. Both were written in a time when technology taken for granted today was still in its infancy. In those days households could be expected to have a landline and to use it as their primary means of communication; today one in five adults live in a household with only mobile phones, and that number rises past 50% for the 25-29 age group. Federal law and regulation has yet to address the use of email and text messaging in a thorough way, even as email is already being supplanted by Twitter and Facebook as the means of choice for resolving customer service issues, communicating about sales and special offers, etc.

Marketing and collection industry groups have asked for clear explanations of permissible use of new technology. Since suits alleging FDCPA violations are filed in state courts by consumers, the case law is inconclusive where it exists at all. And while the Federal Communications Commission ("FCC") has issued statements clarifying the TCPA over the past 20 years, they have not addressed the challenges arising from the widespread replacement of landlines with mobile phones, nor has the act been expanded by Congress to cover the use of social media. The most recent proposal from the FCC contemplates requiring even collectors to have express written consent from a customer to call a specific cell number for collection purposes. But any phone number can now be converted to a mobile number long after a loan application is completed; customers often give their mobile numbers to a contact center agent as the best or only way to contact them without mentioning it is not a landline; businesses use a wide variety of external data sources in their quest to find customers that fail to provide current contact information. These conditions make it difficult to know from day to day which numbers on a record are for cell phones and whether a customer has given consent to call the ones that are. The FCC proposal would surely reduce the efficiency of the automated dialing campaigns that remain the core of most outbound contact strategies.

At the same time, states have been encouraged to enact their own legislation governing the way businesses interact with consumers. Florida has prohibited the use of social media to contact debtors about delinquent accounts; Massachusetts is reviewing its already-strict limits on how often a customer may be contacted by a collector. Cities such as New York have gotten into the act as well in recent years with their own laws about frequency of contact. Businesses need a way to keep up with shifting laws at all levels and to implement new requirements as they take effect.

Increased Reputational Risk

Not surprisingly, in an environment marked by vague and contradictory regulations and laws, lawsuits and complaints to regulators are on the rise. Each compliance department has a slightly different interpretation of what is required when it comes to setting policy for the contact center – and so do plaintiffs' attorneys. What the industry regards as overly-technical violations of FDCPA and TCPA rules are viewed by consumers and their attorneys as actionable violations of their rights, or even as a chance for their own "personal bailout" from the recent recession. Courts as well as regulators have become more likely to take the consumer's side in these cases as society blames large companies, particularly in the financial sector, for current economic conditions.

In this climate the reputational risk of a lawsuit is greater than the cost in dollars to resolve the dispute. Customer complaints are easily shared over the internet, media outlets eagerly report each incident of corporate malfeasance and the cost of replacing a profitable customer continues to grow. Some contact centers have come to regard each additional contact attempt as another opportunity to get sued. Larger companies are beginning to look at enterprise-level limits on the number of calls made, based on concern that a few calls made from each of several divisions will add up to a damaging lawsuit alleging harassment.

Business Response

Companies have taken several approaches to reducing the risk of lawsuits. Few contact centers are taking advantage of all available means to communicate with customers and prospects, preferring to stick with the familiar (telephone) and avoid the new (social media). Most execute location-based campaigns, calling certain states and cities once per day or once per week at set times to ensure that legal limits on call frequency are observed. Many businesses are going further, setting a maximum number of calls per day and a minimum interval between calls regardless of where the customer lives. Some run dedicated cell phone campaigns in preview mode, ensuring that an agent is available for each call but reducing dialer efficiency and effectiveness. Some have gone as far as calling all cell phones manually, or even scrubbing cell numbers from lists and not calling them at all.

Technology can help ensure compliance with corporate and legal requirements without crippling productivity. Best-in-class contact centers look for the following in a proactive contact strategy management solution:

- **Channel Management:** Managing contact channels from a single application allows a business to coordinate frequency and content across all channels, reducing the risk of harassment suits as well as attrition driven by making too many attempts at contact.
- **Time Zone Control:** Number portability and a mobile society lead to records with postal codes and area codes that span multiple time zones. Businesses need a way to determine legal calling hours for each contact device on a record. The method for each channel (landline, cell phone, SMS messaging) may vary based on corporate policies.
- **Limits by Device:** It's no longer sufficient to set limits at the record level. Companies are setting caps on the number of attempts to each phone, email address, etc. Strategy managers need a way to enforce a different limit for each channel and device.
- **Sophisticated Recall Handling:** Larger campaigns are more efficient, particularly on an auto dialer, so creating a separate campaign for every local variation on contact limits and frequencies impacts the bottom

line. Handling those local variations within a single campaign requires post-call decisioning based on account level characteristics (state, postal code, area code) along with full call history.

- **Setting Contact Type by Attempt:** Many contact strategies call for multiple attempts across channels in quick succession. This may mean calling a landline in predictive mode and then quickly rolling to preview mode for a follow-up call to a mobile number on the same record; it may mean sending an automated text message immediately after a dropped call to a cell phone. Setting the optimal contact sequence for each customer requires the ability to shift records between channels in real-time after each attempt.

Conclusion

Agent costs are the largest expense for most contact centers, and profitability depends on keeping those agents communicating with customers. But the potential damage from failure to comply with restrictions on proactive contact campaigns continues to grow as the sources and types of laws and regulations multiply and as businesses struggle to incorporate the latest technology into their policies and plans. In this environment, strategy management applications must provide granular control over each contact attempt to each device on each record in a campaign and must allow business users to quickly incorporate each new rule before risking their reputation on the next contact attempt.

Interested in hearing more? Contact us today to learn how our patented proactive contact optimization solutions, CallTech™ and OnQ™, can help optimize your contact center organization.

About ALI Solutions

A leading provider of contact center solutions and the leading brand providing best-in-class analytics applications to the collections market. ALI's solutions empower business users to maximize agent productivity and optimize customer contacts through advanced contact analytics, automated decisioning and dynamic campaign management. Since 1992, many of the world's most successful companies throughout North America and the Asia Pacific region have chosen ALI because its solutions enable them to proactively communicate with their customers more effectively, thereby improving business performance and enhancing their customer relationships.

For more information, contact ALI Solutions at 512-328-8215 or visit www.ALIolutions.com.