

ANATOMY OF A PROLIFIC ROBOCALLER: DIGITAL MEDIA SOLUTIONS

June 2023 – AUTHOR: David Frankel

SYNOPSIS: Digital Media Solutions (DMS) is a Florida-based company publicly traded on the New York Stock Exchange. Their [web site](#) says they are “a leading provider of technology-enabled digital performance advertising solutions connecting consumers and advertisers.”

I know the company as a prolific originator of robocalls. To the best of my knowledge, they make more than a million calls every weekday. They appear to be selling advice regarding Medicare (including supplemental insurance plans and filing disability claims), as well as home and auto warranties. I haven’t been able to find web sites that detail their consumer-facing offers; they seem to do all their marketing over the phone.

I’ve gathered tens of thousands of examples of their calls. Based on my understanding of the applicable laws and regulations, these calls are not in compliance and should not have been made.

I have been in dialog with the company and their attorney for the past eight months. An abbreviated version of the conversation is given below, with links to all the documents we have exchanged. I’ve provided the company with hundreds of examples of calls I believe to be non-compliant; they have never disputed that they made the calls.

Over the course of our conversation, the company has repeatedly told me that they are committed to compliance and are working to improve. If they knew they had compliance issues, my feeling is they should have stopped calling until those were completely rectified.

Instead, the calls have continued throughout this period, as they do today. The latest word from DMS is that they plan to wind down at least one of their calling programs by the end of July. Will that be the end of it? Why do we have to wait another month?

I am not the first to try to tackle DMS. Web searches will reveal others that have tracked down the company and even filed lawsuits against them, alleging illegal calling.

It is frustrating to witness how intractable this problem seems to be. I’m publishing this post because I believe that as much information as possible ought to see the light of day. Hopefully those that are enabling DMS and similar outfits to make non-compliant calls will begin to push back.

BACKGROUND: Going back more than a decade, I (like most Americans) have been deluged with unwanted robocalls to my handful of telephone numbers, which include mobile and non-mobile services for personal, professional and combined purposes. Most of the calls started with various recordings that did not make it obvious who was calling. The caller-ID was unhelpful. If I did manage to talk to a human, they were not forthcoming as to their identity. Many would lie and hang up on me.

As I telecommunications engineer, I decided to address my frustration constructively. I knew I needed a systematic way to capture and collect detailed information on these calls; the more data points I had, the better I could find and address the source. In the summer of 2022, I deployed a robocall surveillance platform called RRAPTOR which passively waits for calls and when received, answers and analyzes them. I acquired a growing pool of telephone numbers, assigned to me and monitored by RRAPTOR. These

numbers are not published; nothing is done to solicit calls to these numbers. Many of the numbers are on the federal Do-Not-Call list.

RRAPTOR is automated. An “artificial intelligence” robot answers each call and “talks” to the caller (which is often also an AI robot). RRAPTOR transcribes what it hears into text and uses pattern-matching techniques to categorize each call. It also saves the date, time, called and calling numbers, and cryptographic signature (if any) associated with the call.

By September of 2022, RRAPTOR was capturing thousands of “suspect” calls each weekday across dozens of distinct calling campaigns. (Many robocallers take the weekend off.) Suspect calls match patterns associated with common fraud and telemarketing campaigns. Most of the calls are automated (using an artificial or pre-recorded voice); some are placed by humans and in some cases it’s hard to tell what is live and what is recorded. RRAPTOR captures thousands of additional calls that it labels “non-suspect.”

YOU CAN PRESS ONE TO BE REMOVED: Fairly quickly, it was apparent that there were groups of calls that used different names and phone numbers but seemed to be related:

- *Hello, this is Jane with Medicare Rewards speaking on a recorded line. How are you doing today? As I mentioned, I'm with Medicare Rewards and you can press one to be removed. (AUDIO)*
- *Hi, this is Jill with Consumer Council, and you can press one to be removed. I'm a healthcare administrator on a recorded line. (AUDIO)*
- *Hello, my name is Kelly, and I'm a Social Security disability consultant on a recorded line. And you can press one to be removed. ... I'm with senior aide helper regarding insurance, so my callback number is 844-204-6688. (AUDIO)*
- *Hello, my name is Evelyn, and I'm a Social Security disability consultant on a recorded line. And you can press one to be removed. (AUDIO)*
- *Hello? This is Kim. I'm with our home warranty department on a recorded line. Can you hear me? OK. I'm with Senior Aid helper and you can press one to be removed. (AUDIO)*
- *Hello there. This is Margaret in the vehicle care department on a recorded line. Can you hear me? Okay, now I'm a senior aide helper and you can press one to be removed. (AUDIO)*
- *Hi, this is Leah calling about your auto insurance benefits on a recorded line. Can you hear me? Okay, now I'm with discount insurance quotes and you can press one to be removed with a follow up call to your recent request for a free auto insurance quote. (AUDIO)*

RRAPTOR was capturing hundreds of these calls each weekday in September, 2022. Given that volume of calls captured by my relatively small pool of numbers, I estimate that there are on the order of a million of these calls placed each day – perhaps more.

Almost all of these calls appear to employ “sound board” technology, which involves playing snippets of pre-recorded audio. An initial recorded message is played, and then various subsequent messages play depending on what the answering party says. The sound board system may be controlled by a human or by machine, or some combination. The called party may think they are talking to a live person.

WHERE DO THESE CALLS COME FROM? Callbacks to several of the provided telephone numbers yielded no additional information – the recording that plays when each number is called does not identify the business behind the original robocall.

A simple web search of “Medicare Rewards” yields a few hits about scam calls, and a number of references to programs affiliated with a variety of hospital and insurance plans. The phrase “Consumer Council” is so common that a search yields no obvious call source. Ditto for “Discount Insurance Quotes.”

Most of the hits from a simple web search of “Senior Aide Helper” (or “Senior Aid Helper”) reference complaints about scam calls. But there is a first-page hit at the Bizapedia.com web site for a “Florida Assumed Name” registered in Clearwater, FL.

I asked USTelecom’s Industry Traceback Group (the FCC’s Registered Consortium for Traceback under the TRACED Act) to determine the source(s) of several of these calls, and they identified Digital Media Solutions in Clearwater, FL. Their address matches the one I found for “Senior Aid Helper.”

REACHING OUT TO DMS: On 2-Nov, 2022 I emailed the contacts that were identified for DMS, giving them some sample calls and letting them know that I had not granted consent for the calls (which would generally be required if the calls were to comply with applicable regulations). I told them I was anxious for them to bring their calls into compliance.

The “DMS Compliance Team” responded on 4-Nov, asking a few questions, to which I responded the same day. They asked a few more questions on 9-Nov. Again I responded the same day and asked them to provide proof of consent for the calls.

DMS wrote: “Please also provide us a full list of all your numbers so that we can put them all on our internal do not call list, given your request that there are no further calls to any of your numbers.” I responded: “I’m not prepared to provide you with a list of all my numbers. I’m asking that you follow the applicable regulations, which would preclude calls to my numbers without my needing to provide you a list.” This is, of course, the point of the national Do-Not-Call list administered by the Federal Trade Commission.

DIALOG WITH DMS’ ATTORNEY: Next I heard from DMS’ attorney at the law firm of Skadden Arps. [The entire email thread is available here.](#)

On 30-Nov-2022, I sent [a formal letter to DMS, via their attorney](#), imploring them to make all necessary changes to bring their calling into full compliance with applicable regulations.

By that date, RRAPTOR had captured over 31,800 calls that matched the calling patterns used by DMS Group. The calls came from over 29,000 different caller-IDs and were directed to just under 1,200 numbers assigned to me and monitored by RRAPTOR. That works out to an average of 26 calls to each number, with virtually each call coming from a different caller-ID.

I pointed out the following specific examples of calls received by RRAPTOR just since 1-Oct-2022 with the recording indicating the call was from “Medicare Rewards”:

- 109 calls to my number 931.299.2188 from 92 DIFFERENT caller-IDs; all those caller-IDs had 931 as the area code but unique last seven digits
- 100 calls to my number 440.336.9852 from 76 DIFFERENT caller-IDs; 99 of those caller-ID’s had 440 as the area code but unique last seven digits
- 76 calls to my number 208.739.9022 from 66 DIFFERENT caller-IDs; all those caller-ID’s had 208 as the area code but unique last seven digits
- Many other calls following similar patterns

I noted Caller-IDs reflecting area codes associated with 40 different states for Medicare Rewards, 45 states plus DC for Senior Aid Helper, 40 states plus DC for Consumer Council, 39 states plus DC for National Disability. I said that I tentatively conclude that this manipulation of Caller-ID is done with the intent to mislead the called party (or analytics programs operating on their behalf) regarding the location of the caller and/or source of the calls.

CHRONOLOGY OF SUBSEQUENT EXCHANGES: Since my 30-Nov letter, RRAPTOR has captured an additional 24,800 calls apparently coming from Digital Media Solutions.

5-Dec-2022: DMS, via their attorney, formally responds to my letter. Therein, with respect to the 13 numbers that I had identified for them as among those receiving their calls, they “confirm that [DMS] has records of consent for those numbers to be dialed.” The letter also indicated that DMS was working to integrate the FCC’s Reassigned Numbers Database (RND) into their workflow. The RND was initially made available to callers in the summer of 2021 and went into production on 1-Nov-2021. Details are [here](#). DMS is over a year late adopting this tool.

8-Dec-2022: [I responded](#). I asked for a few details regarding the consent that DMS claimed to have for their calls, and also clarification of the entities that were identified as making the calls. I also inquired about DMS’ practice of using thousands of different caller-IDs.

23-Dec-2022: Having been nagged by me again on 20-Dec, DMS’ attorney confirmed their implementation of RND, and let me know that they would give a further response after the holidays.

10-Jan-2023: Having heard nothing, I wrote to DMS’ attorney again. I noted “I’ve gotten over a thousand calls since your last note (below) that I believe come from DMS.” [DMS’ attorney responded that same day with a formal letter](#). She provided me with the date-of-consent I’d requested for a number of calls. I had questioned several business entity names I had heard and she wrote: “[Y]ou asked for registrations of three entities associated with calls you identified in your November 30, 2022 letter: Advocacy Center (for a call to 19512263595, from 19515022048, on 11/29/22 at 20:38:58 UTC); National Disability (for a call to 19414993661, from 19413004851, on 11/30/22 at 18:07:46 UTC); and Vehicle Care Department (for a call to 14354382804, from 14352547606, on 11/30/22 at 17:32:49 UTC). Advocacy Center is registered in Delaware and Pennsylvania to Digital Media Solutions under its subsidiary Forte Media Solutions, LLC. Neither National Disability nor Vehicle Care Department are DMS entities or trade names.” Regarding their use of Caller-ID, she told me: “[T]he Company is aware of the Truth in Caller ID Act and the regulations promulgated thereunder. As we’ve previously noted, the Company is committed to compliance with all applicable laws. DMS does not cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information. And the Company’s practices are not done with the intent to or for the purpose of misleading any person, causing harm, wrongfully obtaining something of value, furthering any fraud or wrongful purpose, or otherwise violating any law. DMS objects strenuously to any contrary suggestions.”

11-Jan-2023: [I responded with another formal letter](#). Regarding the consents, I wrote: “[W]e must further investigate the source of consents for calls to my numbers. It is certain that I have granted no such consent. If there were one or two numbers with issues, then we might attribute this to typos when consumers were filling out web forms. But this problem appears so extensive that there must be other explanation(s). I am aware of several explanations, all involving nefarious activities”

and I enumerated some possibilities involving fraud. I said, "I'm afraid I'm not aware of other credible explanations for how these consents came to be. I am anxious to hear your thoughts on the consents DMS has obtained." I asked for further clarification about calls purporting to come from "National Disability" and "Vehicle Care Department." Regarding Caller-ID, I asked: "If the purpose of using so many different values was not to 'mislead', can you explain what your purpose, in fact, was? Is this neighbor-spoofing, snow-shoeing, both or something else?" Finally, I shared details of about 100 recent calls, to six of my numbers, to help DMS investigate how these calls came to be made.

23-Jan-2023: I sent a follow-up email to DMS' attorney, reiterating my request that they set my expectations regarding a response.

24-Jan-2023: DMS' attorney responded including this explanation: "[G]iven the number of questions you have posed to DMS and the number of calls you're asking DMS to look into (which reflect the high volume of numbers you've acquired not as a consumer, but for your business enterprise), surely you can understand that DMS will have to expend significant resources, expense, and time to respond substantively and in a thoughtful manner. Indeed, DMS personnel already have spent substantial resources and time investigating the inquiries you've sent to date. As you can appreciate, DMS is working to balance various competing demands on its time and resources. It therefore is difficult to provide you a precise date that the company will have a considered, substantive response to your questions." That same day, I responded, opening with: "Sorry to overwhelm you with my requests. Recognizing that some of my inquiries may require investigation on the part of your client, perhaps we could prioritize what I hope are some of the simpler questions regarding the entities responsible for some of the calls." I reiterated several earlier requests.

31-Jan-2023: DMS' attorney emailed back, "Thank you, Mr. Frankel, for attempting to list your inquiries in order of priority. We will take your list into account as we work with our client to provide you a thoughtful response."

16-Feb-2023: I emailed DMS' attorney again, writing: "It's been more than three weeks since I last wrote with what I thought were some very simple requests. I received your acknowledgement but no substantive response. It's been more than three weeks since I last wrote with what I thought were some very simple requests. I received your acknowledgement but no substantive response. Since that last note of mine, I've received, to the best of my knowledge, over 5,000 calls from your client. Since I sent my formal cease-and-desist notice to you on November 30, 2022, I've logged more than 13,000. The quantity of numbers assigned to me is a miniscule fraction of the active numbers assigned to all Americans. Numerical extrapolation would suggest that a thousand calls to me would be indicative of millions of calls to others. You indicated that your client wanted to be collaborative. With calls being made at this frenetic pace, I would have thought that there would be some measure of urgency to ensure that the calls become compliant with all applicable regulations. I am certain that many of the calls are presently non-compliant and continue to offer to help resolve this, but that requires engagement by your client."

23-Feb-2023: DMS Attorney sent an email that included the explanation that "DMS placed the November 30, 2022 "National Disability" call identified in your chart below. National Disability is a

DBA of a DMS client. DMS has reached out to the client for registration documents.” And “Zealous Services LLC placed the November 30, 2022 “Vehicle Care Department” call identified in your chart below. Zealous is not a DMS entity. DMS understands that the name “Vehicle Care Department” was used in error, and the issue has since been rectified.”

1-Mar-2023: I responded by email, noting: “You indicate that ‘Vehicle Care Department’ was being used in error. As a point of reference, I have 1,963 calls that appear to have come from DMS using that (erroneous) name. Of those, 50 were placed subsequent to 30-Nov-2022, when I brought the name to your attention.” I then suggested: “As a next point of cooperative investigation, let’s focus on recent calls to my number +1-405-768-1930. My records suggest DMS has, since the start of this year through today, placed 89 calls to that number, from 89 different caller-IDs. I’ve detailed these calls below.” I asked for consent details for these calls and said, “Once you have shared the consent details, then we can work together to understand how that came to be, when I, the owner of the number, did not grant it.” I added, “I’ll also point out that in the audio of several of the calls (highlighted in bold below), the recording indicates that my response system tried to indicate that there was no consent. And yet the calls persisted subsequent to each of those calls.”

10-Mar-2023: DMS’ attorney responded, saying “We have investigated the latest number that you have provided and, based on the Company’s review, a consumer provided consent to call 405-768-1930 on December 17, 2022.” She also assured me, “DMS has also looked into the registration status of National Disability as requested. Based on DMS’ review, the entity responsible for the call was properly identified at the start of the call and DMS has confirmed that the DBA was properly registered at the time of the call.” That same day, I responded. I asked, “Regarding the entity known as “National Disability” – can you please share these registration details with me?” And, “Regarding consent for calls to 405-768-1930, can you please share with me the details of this consent? You have said ‘a consumer provided consent’ – but that was not me.”

31-Mar-2023: Having heard nothing, I wrote another email to DMS’ attorney. “I continue to see a large number of non-compliant calls coming from DMS. Below, for example, is a list of calls that I’ve received on +1-719-455-9560. There are 91 calls in less than 90 days, coming from 91 distinct caller-ID’s. During at least three of the calls (shown in bold; one was over two months ago) I announced that I had not consented to the calls – yet they continue. There’s one from earlier today. Beyond compliance, this pattern of calling just seems non-sensical to me. Why would you relentlessly call a number that is clearly not yielding your desired outcome?” I added, “Do you have any suggestions as to how we can move the ball forward here? My approach doesn’t seem to be working.”

3-Apr-2023: DMS’ attorney responded, including “On the consent for 405-768-1930, raised in your email, our review suggests that this was a case on consumer-falsified consent. An individual using the same name and information provided consent for this number on two different websites on the same day. Based on a review of the property records available, it appears that a fake name was given. ... We share your and the industry’s concern with falsified consents and DMS is constantly adapting its compliance procedures to try and ensure that each call initiated is delivered to an individual who provided consent for that call.” She also noted “The registration information for National Disability is attached. National Disability is a d/b/a of CD Media, LLC, which is a wholly

owned subsidiary of Citizens Disability, LLC. The National Disability d/b/a is registered in the City of Waltham, Massachusetts, under Business Certificate #16-374.” And she stated, “We appreciate that you view DMS’ offer to place your numbers on its DNC list as a “band-aid.” However, we still believe that it would be the most efficient way to prevent any unwanted calls from DMS while we continue our dialogue about issues in the industry.”

5-Apr-2023: I emailed back to DMS’ attorney. In addition to requesting additional consent details, I said: “On 31-March, I wrote ‘Beyond compliance, this pattern of calling just seems non-sensical to me. Why would you relentlessly call a number that is clearly not yielding your desired outcome?’ This was not asked rhetorically. In my call logs, I see more than 200 different numbers that have, apparently, each gotten a dozen or more calls from DMS since the beginning of the year. My expert perspective is that this calling behavior only serves to amplify Americans’ frustrations with robocalls. Why would you want to contribute to that in this way?”

20-Apr-2023: DMS’ attorney emailed me back. Regarding additional consent details, she wrote: “As mentioned in our previous emails, we are hesitant to provide additional, specific information regarding consents out of concern for inadvertently disclosing personal identifying information.” She closed with: “Finally, Mr. Frankel, while DMS has been happy to work with you in good faith to answer questions about calls you have received on numbers you own and has considered the broader points about the industry you have raised, DMS does not plan to provide answers to your questions regarding its overall business strategy. We are aware that you have issues with the industry in which DMS operates. However, DMS strives to comply with all applicable laws and regulations, and believes that its practices with respect to consumer consents meet or exceed those of its peers. DMS takes the issues you have raised seriously and is happy to continue this dialog in what we hope will be a mutually respectful manner.”

4-May-2023: I wrote back. I proposed a strategy for dealing with the personal information that might be included in consents.

10-May-2023: DMS’ attorney wrote: “DMS does have relevant information to share that we believe will be of interest to you. While we cannot provide this information at this moment, we will plan to follow up with you early on in the week of May 15 with such information.” I wrote back that day, including: “You did not respond to my specific proposal regarding exchanging information so that we might all understand what is at play here. Perhaps the forthcoming data you referenced will shed more light on things. I look forward to receiving that as soon as possible.”

16-May-2023: DMS’ attorney informed me: “Please be advised that, as publicly announced in DMS’s 10-Q filed on May 15, 2023, DMS has announced it will be terminating operation of DMS Voice. As previously emphasized, DMS takes its regulatory and compliance obligations very seriously and endeavors to fully comply with all laws and regulations. We hope this step further evidences these commitments.” I wrote back: “I am assuming that ‘DMS Voice’ is the part of the company that is responsible for the calling campaigns we’ve been discussing. It wasn’t apparent from the 10-Q if the termination was complete or if it was forthcoming. As of today, I’m still seeing the same pattern of calls that I’ve observed for some time. Can you offer any additional clarification?”

17-May-2023: DMS' attorney responded: "DMS Voice is an interactive voice recognition technology, which DMS licensed from a third party. DMS is in the process of phasing out use of DMS Voice and hopes to complete the phase-out as expeditiously as possible."

7-June-2023: I wrote to DMS' attorney presenting a chart of their calls and stating "I haven't seen any change in the volume of lead-generation calls that match the pattern of what we've identified as coming from DMS Group. Below is a chart that shows calls by week since March of this year. It looks like the volume of calls is ramping up this week (we're only three days into it and the volume exceeds what we saw in each of the earlier weeks)."

16-June-2023: DMS attorney wrote: "As noted in our May 15th email, DMS is in the process of phasing out use of DMS Voice. Separate and apart from other voluntary compliance measures DMS is taking to ensure that it is consistently utilizing best practices, DMS is hopeful that once DMS Voice is fully phased out, you will see the expected drop in calls. We anticipate DMS Voice to be fully phased out by the end of July."

WHERE ARE WE NOW? It seems we have to wait another month to see the impact of this "DMS Voice" phase-out. It isn't clear what fraction of the calls are made via DMS Voice and whether DMS will replace it with some other technology. While we wait, DMS will make millions of additional calls.

In order to place their calls, DMS has to find a Voice Service Provider (telephone company) willing to take payment from DMS to put those calls onto the U.S. telephone network. Our latest information is that Perfect Pitch in Lehi, UT is at least one of the telephone companies handling DMS' calls.