

**No fanfare for the introduction of directors' liability for Nuisance Calls!**

The introduction of directors' liability for breaches of the PECR (regulations covering unsolicited direct marketing calls without consent) comes into effect on 17 December 2018. There has been no fanfare from either the **Department for Digital, Culture, Media and Sport** nor **Which?**. The **fair telecoms campaign** is astonished at this, given the fuss that has been made over this issue.

The Privacy and Electronic Communications (Amendment) Regulations 2018 have been tabled as SI 1189/2018 - [published here](#) – and, barring objection, will come into force on 17 December 2018.

The government however states that responses to the consultation on this topic are still being “analysed” – see [Consultation: Nuisance calls and messages: action against directors](#).

We have also heard nothing from **Which?**, despite the fact that it continues to collect signatures for a petition that calls for nothing more, in terms of specific action – see [Which? campaign: Nuisance calls and texts](#).

In general, the **fair telecoms campaign** sees this change as simply another “meaningless tweak” to a regime that has been shown to fail over 15 years. We see no reason why this, in common with other recent “meaningless tweaks”, will represent the radical change of approach that is needed, having noted the failure of this regime to deal with the problem over 15 years.

For this reason we have outlined [The actual steps needed to “end the blight of nuisance calls”](#).

We cannot oppose this measure, but we see little merit in taking action to ensure that the few fines which are imposed – limited by the ability of an identified culprit to pay – are actually recovered. Our focus is on measures that will actually alter the behaviour of sectors of business, and others such as charities. We want to see an end to nuisance calls rather than just punishment.

The only way that this change may have any impact on the problem of Nuisance Calls, as opposed to the recovery of fine revenue for The Treasury, is if company directors live in fear of personal liability for breaches of the regulations, and thereby alter behaviour that they can control.

This fear can only be engendered if they are aware of the risk. It is therefore quite extraordinary that there has been no great fanfare of publicity to announce that this change is being made.

Update on a related issue

The measures announced in the Budget Statement – **treating all recipients of unsolicited direct marketing calls about pensions as if they had registered with the Telephone Preference Service** – will be debated by parliament shortly. (See [Cold-calling crackdown 'pathetic and toothless'](#)).

The Treasury has submitted the draft Statutory Instrument to introduce this further “meaningless tweak” to a failed regime – see [The Privacy and Electronic Communications \(Amendment\) \(No. 2\) Regulations 2018](#). We understand that this will be considered by the **Joint Committee on Statutory Instruments** at its meeting next Wednesday (21 November) and thereafter scheduled for debate by a **Delegated Legislation Committee**, under the “affirmative” procedure.

We will publicly brief that Committee on the need for firm and effective action to complement this “meaningless tweak”. This must be a total ban on the use of unsolicited direct marketing by telephone to be imposed by the **Financial Conduct Authority**. This may be, and should be done using the powers, and in fulfilment of the duties, already held by the **FCA** under statute.

