



## Do you trust the government to ban cold calling?

Based on our very many unhappy experiences over many years, with governments of all parties, the **fair telecoms campaign** does not trust the government to ban cold calling in any area!

On Tuesday evening in the House of Lords, LibDem and Labour peers, after moving and speaking to an amendment to require the **FCA** to ban all cold calling in respect of Claims Management, withdrew it on the basis of assertions from a government minister that an equivalent amendment would be tabled when the **Financial Guidance and Claims Bill** moves to the House of Commons.

From comments made by the Minister in response, it is clear that the Government proposal will be totally different from the measures in the withdrawn amendment, and thereby no more effective than other over-hyped tweaks to the powers of the **ICO**. See [Hansard](#) and [parliamentlive.tv](#).

The key points, which the **fair telecoms campaign** had urged those proposing the amendment to press – see [our briefing for the debate](#), are that a prohibition on cold calling for a specific area can only be imposed by the regulator directly responsible for that area. This is far more likely to secure compliance, given that, in this case, Claims Management Companies risk the loss of their licence to operate in the event of a serious breach of the regulations imposed on them.

Furthermore, only a direct regulator can impose a specific requirement to carefully audit the source of leads, so as to effectively cut off the source of income from those agencies who engage in “Claims Farming” by cold calling. These Claims Farmers may evade regulations by being hard to catch, operating offshore (and therefore beyond the scope of enforcement) and / or by failing to actually market the services of a particular licensed Claims Management Company.

Due to forthcoming changes in EU regulation, the government will be heavily engaged in revising the regulations covering those who are permitted to engage in electronic direct marketing. The Minister made extensive reference to work that had been done in this area and further work to come by the **Office of the Information Commissioner** (ICO), which enforces statutory regulations.

The whole point of the amendment, which was moved but then withdrawn, was to remove all licensed Claims Management Companies, and those who collect leads for them, from the scope of such general regulation, by total prohibition. The **ICO**, as may be seen from the fact that its interventions make little difference to the scale of Nuisance Calls, has an almost impossible job in trying to secure compliance with the liberal, albeit qualified, general regulations.

We believe that direct regulators, primarily the **FCA**, have a vital role in “taking out” their share of the nuisance, in cases that can be well defined and where such total prohibition can be justified.

When addressing the issue of Pensions cold calling, the [government responded to a consultation](#) by indicating that it intended to leave the responsibility of preparing a tighter code (not a total prohibition) to the **ICO**. It has subsequently [indicated that this work will be delayed](#) whilst the forthcoming EU regulations, and other near insurmountable obstacles, are dealt with. We must have every expectation that it will take the same approach in respect of Claims Management.

Whilst the **ICO** only enforces statutory regulation, the **FCA** is responsible for preparing, imposing and enforcing its own regulations. Given [this independence](#), we therefore call on the **FCA** to **immediately consult on a proposal to ban cold calling, covering all regulated Financial Services**.

