

**The Financial Guidance and Claims Bill - Commons - prohibition of unsolicited direct marketing by telephone**

This Bill begins its Commons stages on Monday 22 January, after extensive action by Peers to ensure the inclusion of provisions to cover the issue of unsolicited direct marketing by telephone.

The **fair telecoms campaign** was heavily involved in briefing peers on this issue, as this is a topic on which we have long been involved. We urge MPs to note and support our comments.

The key issues

We urge members to ensure that the final form of the Bill achieves the following objectives:

- The FCA clearly set on a path to prohibit unsolicited direct marketing by telephone, with the freedom to do so in the most complete, well-refined and effective way possible.
- For a prohibition, through regulation of “authorised persons”, to be effective, it must be extended to cover their use of leads obtained by (unregulated) independent marketing agents.

The relevant provisions, as debated in the Lords

[Clause 4 of the Bill as it stands](#) was added initially through an amendment passed against the opposition of the government. It is however unsuitable in its present form, as it fails to identify the mechanism (a basis for the referenced SI) which may be used to fulfil its intended objective.

[An amendment to part 2 of the Bill](#) was moved, but not pressed, at Report Stage, because the government committed to itself introduce the necessary provision in the Commons – [see Hansard](#).

In both cases, the intention is to compel the FCA to impose and enforce a prohibition on unsolicited direct marketing by telephone. In the first case, this is to apply to any area specified by the Single Financial Guidance Body. In the second case, this is specifically with reference to Claims Management Companies and agents acting on their behalf.

Our position

We see it as vital that prohibition of cold calling be applied by the regulator most closely engaged and most significantly empowered to achieve compliance. For this area, only the FCA may have this role. The ICO serves in enforcing “fall-back” regulations where there is no specific regulator.

We believe that the FCA, notwithstanding any further duties imposed through legislation, should itself take responsibility for banning unsolicited direct marketing by telephone across the entire field of Financial Services.

📖 See our briefing [“Prohibiting Telephone Cold Calling in the Financial Services sector”](#).

📖 See our [“Response to FCA Consultation – ‘Our Future Approach to Consumers’”](#).

Our concerns about what the government may propose

We await comments in the Second Reading debate and amendments to be tabled in Committee.

Our long experience of the failure of successive governments to address the issue of Nuisance Calls effectively leaves us with concerns, although we hope they will not be fulfilled.

📖 See our briefing [“Do you trust the government to ban cold calling?”](#).

