



Better to stop nuisance calls being made now and in future, than only punish for those made 2 years ago – elementary?

Two weeks ago, we issued a news release - [The FCA needs to ban unsolicited direct marketing calls - the Financial Guidance and Claims Bill is a necessary step.](#)

This highlights the essential weakness of **ICO** action against Nuisance Calls, despite its best efforts. A new **ICO** case – [Enforcement action against Holmes Financial Solutions Ltd](#) – further confirms our points, as the necessary measure comes up for debate in parliament.

The **Information Commissioner's Office (ICO)** has just imposed a financial penalty on this company, on account of nuisance it caused between **22 October 2015 and 27 July 2016**.

Whether or not the £300,000 penalty may be recovered from this company, or its directors, is not the point of primary concern to the **fair telecoms campaign**.

We need **a regulatory regime that will be effective in stopping this nuisance from being caused**.

That is the effect which will be achieved if an amendment, prompted by our representations, is added to the **Financial Guidance and Claims Bill**, when it is debated in parliament next Tuesday.

Companies that are able to handle cases of claims for mis-sold PPI, Accidents, Holiday sickness etc. have to be registered. The amendment (New Clause 9 to the Financial Guidance and Claims Bill) requires that the Code of Conduct, with which they must comply to continue in business, must prohibit both the making of unsolicited direct marketing calls and the use of data so obtained.

The effect would be to deny the possibility of companies such as **Holmes Financial Solutions** being able to make money out of the leads they gather and sell on to registered companies.

We are also lobbying hard for the **Financial Conduct Authority (FCA)**, which regulates all aspects of financial services (and will be taking on the responsibility for Claims Management Companies) to apply the same principle of prohibition to all “authorised persons” that it regulates. We look for a further amendment to this same Bill, to this effect, to be tabled at a later stage.

Other points about the inadequacy of the role of the ICO

Reading [the notice issued to Holmes Financial Management](#), one finds other disturbing facts.

- It is revealed at paragraph “24.” that the 62 complaints about this company had been ignored by the **ICO**, until it received a tip-off through an indirect channel. Anyone who expects a valid and justified complaint to receive attention must recognise that the **ICO** is wholly unable to deal with the large number of complaints it receives. We must also understand that this is a reason why the vast majority of cases are not reported.
- Comments at paragraph “44.” and thereafter recognise that those covered by the relevant law may not be aware of it. This breach is deemed not to have been “deliberate”. This shows the role of the **ICO** as being remote from a regime of direct regulation, where there is a clear and constant relationship with the regulator and a code of practice which demands compliance.

Conclusion

The matter of prohibiting cold calling must be covered by a direct regulator, wherever possible. We can start with Claims Management Companies and perhaps others regulated by the **FCA**.

