fair telecoms campaign **briefing**

Media coverage of a government announcement about Nuisance Calls made on Saturday 8 September 2018

The **fair telecoms campaign** contributed (directly and indirectly) to media coverage of an announcement made by the government at 00:01 on Saturday 8 September 2018 – see Tough new measures to end the blight of nuisance calls.

This briefing aims to clarify exactly what was announced and what it means. It includes links to published material giving the views we expressed and those of others.

The Financial Guidance and Claims Act gained Royal Assent on 10 May 2018. We comment on the provisions relevant to Nuisance Calls in this briefing – Guide to the "ban" on Cold Calling in the Financial Guidance and Claims Act 2018.

The provisions of Section 35 awaited a commencement order before they could come into effect. We understand that this order was signed by the Secretary of State on Friday 7 September 2018, although the relevant SI has not yet been published.

The government announcement states that the provisions covered by this Section of this Act will apply from 8 September 2018.

Opting-in and Opting-out

The legislation covering unsolicited direct marketing by electronic means requires that this can only be undertaken with the consent of the person being contacted. (Suggestions that there has been some major change are wholly misleading!) Since the legislation came into force in 2003, this has always applied to all contact by email, fax, text message and automated telephone call.

In respect of attended telephone calls however, the UK government chose for consent to be assumed unless the number called is registered with the Telephone Preference Service. This only applies to attended telephone calls – whereby assumed consent has to be withdrawn by recording the telephone number on the TPS register. For automated calls, texts and emails an "opt-in" regime already applies, as it does for numbers on the TPS register.

The only change applied by the terms of the provisions brought into effect on 8 September is to remove the assumption of consent to attended unsolicited direct marketing calls and this only applies in respect of calls about Claims Management services.

Whilst many feel that this general assumption of consent, unless the number is registered with the TPS, to be wholly inappropriate and quite improper, this measure only removes it in respect of calls about Claims Management services.

Old news repeated

The government announcement makes reference to measures that are already in place. This sadly led some to believe that something new was being announced:

- ☹ **The penalty of up to £500,000**. **This is nothing new**. In fact the maximum penalty is determined by how much the company being penalised can afford to pay, as no penalty may damage the ability of a company to remain in business.
- ☹ **2.7 billion calls and texts per annum**. **Most of these are already illegal** – certainly all text messages and calls to those registered with the TPS.

fair telecoms campaign **briefing**

Media coverage of a government announcement about Nuisance Calls made on Saturday 8 September 2018

Who are the "campaigners" referred to in a BBC report

The views of un-named "campaigners" reflected in a report by Manuela Saragosa of the BBC are those of the **fair telecoms campaign**. We briefed Manuela as she prepared her report and were content not to be named.

It is important to understand that other "campaigners", notably **Which?**, do not share our view. **Which?** argues strongly for the right of organisations (including itself) to engage in unsolicited direct marketing, given "consent". We argue that only solicited contact should be permitted.

Our campaign to end Nuisance Calls

For details of the overall and comprehensive approach which we are pressing for, see our release – The campaign to end Nuisance Calls.

Broadcast items

Click icon to listen / watch

	BBC 5Live – Breakfast, 0610	Commenting on the news and what needs to be done
	BBC Radio 4 - Today, 0700	Report relaying our views
	BBC Radio 4 - Today, 0820	The weakness of the measures explained by the ICO
	BBC Wales – Good Morning Wales, 0825	Reacting to views from listeners
	LBC – Andrew Castle, 0835	Action needed to address Nuisance Calls
	Sky News – Rebecca Williams, 1220	What is being done and what should be done
	BBC Radio 4 – PM, 1725	What is being done and what needs to be done
	BBC News, 1910	What has changed and what needs to be done
	Talk Radio – Michael Graham, 2300	Dealing with Nuisance Calls in the UK and the US