fair telecoms campaign **news release**

Consultation on new rules for Claims Management Companies - NO ban on Cold Calling

The **fair telecoms campaign** notes the publication of draft regulations to be imposed on Claims Management companies, once this responsibility passes to the **Financial Conduct Authority** – "how we propose to regulate claims management companies".

We regret the omission of a prohibition on unsolicited direct marketing by telephone, text message and email. The document refers to a continuation of the **ICO** regime, which has failed to deal with this problem over many years. This failure continues despite many tweaks to the powers and regulations, each of which has been hyped up as being **"The End of Cold Calling"**.

The document reports that "***a large proportion of CMCs' business is conducted by telephone***". Acceptance, even tolerance, of the fact that this method is the most common way in which these companies do business represents an appalling failure to grasp the situation and to address it properly – by simply prohibiting unsolicited direct marketing.

The **FCA** believes that, in the last 12 months UK citizens have received, "***approximately 2.7 billion unsolicited calls, texts or emails from CMCs offering to help them make a claim***". Other sources suggest higher figures.

The **FCA** is content for this to continue, subject to rules which have been in place for the last 15 years – **unsolicited direct marketing contact may only be made with "consent"**. The **ICO** has been responsible for enforcing compliance with this rule throughout this period. That is what has got us to where we are now, and no change to this essential principle has been proposed.

Repeated over-hyped tweaks to this failed regime have not made any significant difference. We therefore continue to argue that the approach must change. The concept that one may be deemed to have "consented" to an "unsolicited" approach is a nonsensical gap, through which much of the nuisance flows.

If the **FCA** is content to argue that the nuisance caused by these 2.7 billion (probably unwanted) contacts is a price worth paying for the benefit of making Claims Management services available, then let it make that case. The "price worth paying" argument is the only basis on which a failure to prohibit unsolicited direct marketing may be sustained by those able to apply a prohibition.

We would go even further, urging the **FCA** to prohibit unsolicited direct marketing by telephone, text message and email **across the entire scope of its regulated activities**. Permitting such activity can only be sustained on the basis of the overall public interest.

Particular focus has been recently drawn to those who seek to capture investment of pension pots released under the terms of the recently introduced "Pension Freedoms".

Other financial services commonly marketed by telephone include "high cost credit", another area subject to recent discussion.

In summary, we believe that it falls to those who wish to permit the business activity of unsolicited direct marketing by telephone, text message and email to demonstrate that this is overall in the public interest. Common experience and widely expressed views would suggest that it is not.

We are ready for a fair debate on this topic; an unconsidered liberal approach is inadequate, and a belief that this is simply an issue of data protection is mistaken. Some contacts arise from misuse of personal data, but that is only a small (and essentially irrelevant) part of the problem with an activity – unsolicited direct marketing – that should be prohibited outright.

David Hickson

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