

Case Studies

Case 01

No overcharging

No overcharging

C¹ was shocked to receive a bill from T which was more than 2,800% larger than his usual monthly bill. It was significantly more than the credit limit he understood applied. C wanted the bill reduced to that credit limit because, he said, he was not aware charges would be applied for calls received whilst abroad, nor that whilst abroad, *'outgoing calls would be charged at unreasonable and extortionate rates'*. T asserted its service agreement with C specifically stated that credit limits may be changed by T, some call charges especially those for international incoming and outgoing calls may not be debited to the account immediately, charges may be varied and a booklet of charges had been given to C.

The Adjudicator decided that T had provided services under its standard terms which were clear, easy to understand and fair. The Adjudicator did not accept C was unaware of the varying tariffs, charge levels or that international charges may differ from domestic. C had used and must now pay for services T had provided in accordance with C's agreement with T.

Case 02

Over charging

Over charging

T was to provide free calls to a telephone number. C complained when T wrongly charged him for the calls (the number had not been fully added to the rater consequently it was recognised as a chargeable number not a free number), continually produced incorrect invoices and secured payment of the charges by direct debit. C notified T that he wanted to terminate the service agreement. T wanted to recover a cancellation charge for early termination because the charging errors did not constitute a breach of the agreement that gave C the right to treat the agreement as repudiated by T.

The Adjudicator found there is a duty upon a supplier of services to a consumer to correctly assess charges which are due. A consumer signing a direct debit agreement must have confidence the supplier direct debiting his account will do it accurately and will rectify any charging problems quickly. T had not identified or corrected the charging mistakes until the adjudication and had pursued C for a cancellation charge without proper adjustment for previous overcharging. The Adjudicator directed T to pay C's costs in seeking to resolve the charging dispute together with compensation for inconvenience, vexation and stress.

¹ The customer is referred to as, C, and the communication and internet service provider as, T.

Case 03

No ex-directory

No ex-directory

C had wanted (for 4 years she maintained whereas T asserted for about 6 months) her telephone number to be ex-directory not only because she had suffered cold calling by salesmen but also C did not want the risk of her ex-husband or his contacts getting in touch with her. That risk remained when T published the telephone number in two of its directories. T accepting some failure in its service made C a goodwill payment and offered compensation of 10% of the amount C claimed.

The Adjudicator preferred T's case noting it was unlikely C would fail to notice a directory listing for four years before complaining when she was so concerned at the risk to her personal security. T's offer of compensation was fair and reasonable in all the circumstances.

Case 04

Debt collection

Debt collection

C was contacted by a dealer who was advertising T's services. She agreed to enter into a service agreement but changed her mind after 2 days and returned the phone. C received bills from T. She complained she was not liable for them. After T had placed the rapidly mounting debts in the hands of debt collection agencies to recover, C was refused an overdraft bank balance and store card. C requested that her details be removed from the debt collectors' data base to restore her good credit rating. T agreed to cancel the service agreement, write off any outstanding sums and issue instructions for any bad debt credit entries against C's name to be removed.

The Adjudicator directed T to pay compensation to C and apologise. Also T was to forward to C proof not only that T had instructed the debt collection agencies that any bad debt credit entries entered against C's name were to be removed but also that the entries had been removed as if never entered.

Case 05

Unauthorised international calls

Unauthorised international calls

Two weeks before Christmas C, who lived in the UK, had a telephone package which an engineer tried to connect but said he could not and would come back. T had no records to suggest the service had not been properly installed that day. The telephone line had no usage until Boxing Day when international calls were made to Burundi, Ontario, Quebec, Tanzania and Uganda. C knew no one in these countries, he was unaware the phone was working, he did not use it himself nor knew of anyone else using the phone. The calls were picked up by T's high usage report the following day. T being unable to contact C bared calls.

The Adjudicator had grave doubt C either made or authorised the calls and did not consider C was responsible for calls made on a line which C did not know had been installed. The Adjudicator decided C was not liable to pay the disputed bill.

Case 06

Text Play

Text Play

Text Play is a range of games which can be accessed via the smartcard on a mobile telephone. C was charged for each text message C sent to the Text Play service. C believed the service was free. It was a considerable surprise to her when she was charged a substantial amount for the use she made of Text Play. The charges were set out in T's booklet of charges a copy of which was provided to C with her smartcard. C could not recall seeing the booklet.

The Adjudicator decided that the Text Play service charges had been brought to C's attention when she began her contract with T. C was liable for the charges made for the Text Play service which she used. A person who neglects to read contract terms is none the less bound by them.

Case 07

No service

No service

C complained about T's failure to provide a reasonable level of service for C to make and receive calls to his mobile phone in the Manchester area. This became progressively worse over several months. C was particularly upset when he was stuck in a lift for 2 hours and could not use his mobile phone to call for help. T accepted there were problems with the service and issued an apology, provided compensation and gave an explanation. C was dissatisfied with the explanation because it was implausible.

The Adjudicator decided that T should provide C with a full and detailed explanation for the loss of service.

Case 08

The deactivated SIM card

The deactivated SIM card

C's original SIM card was deactivated by T who said an upgrade phone had been sent to C by a dealer, the dealer having requested an upgrade on the instructions of C. C had never contacted a dealer or agreed to an upgrade. C was concerned to learn from T (which T later denied) that T had released personal information about C to the dealer. C requested T to reactivate his original SIM card. T did not, instead placing a block on C's handset so that it could not be used. When C asked for the dispute to be decided by adjudication, T's customer services department told him that the company was not a member of CISAS and then sent him an illegible form.

The Adjudicator decided that C's personal details were disclosed by T to a dealer, the behaviour of T was unreasonable and a serious failure. The failure was made worse by T attempting to avoid C's right to have his complaint properly dealt with. This was reflected in the level of compensation.

Case 09

Infra red link

Infra red link

C upgraded his Nokia mobile phone to a SPV E100 mobile which used an infra red modem connection. However, it could not connect to his PDA because unlike the Nokia, the SPV E100 would only link to devices using Microsoft operating systems. The PDA of C used the Linux operating system. C complained that T had not explained before he purchased the SPV E100 that it was not compatible with some devices. C asked T to provide a mobile compatible with his PDA he was prepared to pay its cost but not T's £200 upgrade fee. T suggested C was at fault because he did not verify compatibility prior to purchase.

The Adjudicator decided that T had a duty to set out the fact the SPV E100's infra red facility would only link with other devices using Microsoft software and their helpline would only assist with Microsoft software problems. T had breached their contract with C as T had promised C the SPV E100 would provide an infra red linking facility and T would provide expert assistance to ensure it could be used. C should return the SPV E100 to T who should provide C with an alternate handset with infra red linking facilities compatible with devices using a Linux operating system free of upgrade charge but subject to monthly communications services charges. If T could not provide such a handset then when C returned the SPV E100, T was to repay C the cost of the phone and release him from his communications services contract without penalty.

Case 10

Free phone charges

Free phone charges

T charged C who had used his mobile telephone in the USA to call a USA free phone number. C complained that the calls should be free. T maintained that had C enquired he would have been told that all calls in the USA, even calls to a free phone number, were chargeable and this information was freely available in all T's literature on roaming.

The Adjudicator decided C must pay for all calls made to USA free phone numbers.

Case 11

Stolen mobile calls

Stolen mobile calls

During the night C's home was burgled whilst C lay asleep, her mobile phone was stolen. Between the time it was stolen and the time C notified T of its loss 7 days later, over £1,900 worth of calls had been made from the mobile. T queried the usage by sending a text message for C to contact them C did not receive the text. T did not stop the service. C disputed her liability to pay for these calls.

The Adjudicator decided C was liable to pay the disputed bill.

Case 12

Rogue diallers

Rogue diallers

C, who lived in the UK, was charged by T for international calls to islands off the west coast of Africa incurred through internet usage which C maintained were never made by himself or any member of his family. T explained that the calls had been made from the pc of C because he had inadvertently downloaded aggressive dialler software when either visiting a particular website or by opening junk e-mail. The programs could operate without the user being aware by removing T's dial up number, replacing it with their own, then dialling an international number and charging large amounts.

The Adjudicator decided that C was responsible for the security of his computer. Information about recommended software for computer security was available on T's website which T was reviewing to highlight the more established internet pitfalls particularly, 'rogue diallers'.

Adjudicators recommendations for good practice

Adjudicators recommendations for good practice:

1. T should ensure that once a dispute is referred to CISAS for adjudication no steps are threatened or taken to enforce payment against C until the adjudication process is complete.
2. The contract / service agreement containing the signature of C and all the relevant terms and conditions should always be included in the documents provided to CISAS if not by C then by T.
3. T should ensure that chargeable services, such as Text Play and some calls to free phone numbers etc, are communicated to C by a text message on at least the first time C uses the service.
4. C should be given the option by T at the time the contract is made of having calls barred immediately if the usage exceeds a given amount.