

CISAS

COMMUNICATIONS AND INTERNET SERVICES ADJUDICATION SCHEME

Annual Report 2004-2005

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Introduction from the Senior Adjudicator

Now operating for its second year, CISAS continues to go from strength to strength. This can be measured in numbers, reports and confidence. The number of communications providers who are now members of CISAS has increased dramatically. The administration of CISAS has received its first audit report from Ofcom which has led to it being re-approved, and confidence has grown as shown by comments in my own mailbox from users who were initially sceptic but are now firm supporters.

We are all proud that we now have an established working scheme that is delivering tangible results by resolving disputes quickly, effectively and, most of all, fairly.

Yet there is often a common thread to the most frequent problems we encounter. Mobile phones are sadly a target of thieves and problems arise when phones are stolen. They are used fraudulently and the customer is often faced with a large unexpected bill. Customers have to accept that they are responsible for keeping their phones safe and for properly advising the provider if it is lost or stolen, otherwise the customer is liable.

Equally, the providers could do more to monitor sudden unusual activity and to act swiftly to protect the best interest of their customers.

Many of the disputes involve customers who are managed by junior call centre operators who often do not know about the existence of CISAS, or if they do, do not reveal it to the customer. Better training and a willingness to try to engage customers more can overcome this but it must come from the top and be led by example. Indeed, this is one of seven recommendations made by Ofcom following their Review of ADR Schemes. Further details on this and the other recommendations can be found on pages 7 and 8.

There has also been a welcome drop in the use of debt collection agencies being used, even when an account is in dispute. We feel that such collection effort is an unacceptable practice but unfortunately it still happens.

It is perhaps interesting to compare the package holiday industry with the communications industry, both of which generate many customer complaints. The package holiday industry is longer established and very much more a people business. Whilst it is inevitable things will go wrong, the industry is now relatively sophisticated in its delivery, in dealing with complaints and in admitting its mistakes. The communications industry on the other hand is much younger and the technology and the robustness of that technology is a major factor in generating problems.

It is my experience, and a view shared by my fellow adjudicators, that customers are usually genuine when they say they have a problem and that they are prepared to accept the *'less than perfect'* technology, but are unhappy when they think that they are not taken seriously and *'fobbed off'* with weak or unbelievable excuses when lodging a complaint.

One of the big challenges for the communications industry is the rise of Trojan viruses and scams that cause high bills to be incurred through no apparent knowledge or fault of the customer. Providers need to take action to increase security and build customer confidence before it slips badly.

Finally, I would like to take this opportunity to thank all the administration staff at DRS-CI Arb for their quiet efficiency, tolerance and understanding in managing the scheme for the benefit of consumer and provider alike.

A handwritten signature in black ink that reads "M. Coombes-Davies". The signature is written in a cursive, flowing style.

Dr. Mair Coombes-Davies
Senior Adjudicator, CISAS





Overview of Operations

The past year has been a period of constant development and change at CISAS, in which we have seen the number of enquiries rise by over 75% and the numbers of members increase to over 150.

We have also seen changes to the management structure with Yvette Yates taking over as Service Delivery Manager, responsible for all aspects of daily delivery of the service, whilst I have concentrated more upon the relationships with members, consumer groups and, of course, Ofcom. Yvette has settled quickly in to her new role and has implemented several important improvements to the operation of the service, including the publication of an improved internal complaints process.

The biggest challenge for Yvette and the rest of the team has been the rise in calls made to us by customers contacting us too quickly. These calls can represent a ten or fifteen minute conversation with each customer who has, for one reason or another, been referred to us incorrectly.

Membership and range of services

During the year we have seen a steady increase in membership of CISAS. In June 2004, CISAS had 74 members. This has grown in 2005 to over 150 members, with new companies joining on a weekly basis.

Members are now drawn from more diverse backgrounds. Again, going back to mid-2004, membership was split into three categories: Internet Service Providers and Fixed and Mobile Telephone companies. CISAS now has members coming from each of those areas as well as radio communications and voice-over-internet (VoIP) providers. Furthermore, some original members, such as AOL, are now covered not only for internet service provision, but also for telephony services and VoIP.

One major contributor to the increase in membership has been the successful launch and growth of the Internet Telephony Services Association (ITPSA), whose members enjoy membership of CISAS automatically upon registering with the Association. This is similar to the arrangements with both the Internet Service Providers' Association (ISPA) and the Federation of Communications Services (FCS).

In the next year we expect membership to grow further, partly due to the success of the service and partly to the decision of Ofcom to strengthen its enforcement of the requirement on a provider to implement and comply with a Dispute Resolution Scheme.

Validating Claims ✓

When CISAS was launched we introduced a validation process where it was not clear if the application from the customer was valid. This process has served all parties well, and now we no longer need to validate applications where the customer has provided us with clear evidence that the company has been aware of the dispute for more than 12 weeks.

Whilst we are aware that some customers do introduce new matters which may not have exhausted the companies complaint's procedures, companies will have the opportunity to point out these matters in their defence and once proven it will be disregarded by the adjudicator.

Raising awareness

Following requests from members and Ofcom, we will engage in an awareness campaign in 2006 to raise the profile of the service. We have already started this process by improving dialogues with consumer bodies, and our new website will be launched at the end of September 2005. The updated website will provide customers with additional information, FAQ's and access to all CISAS case studies. CISAS members will benefit from improved communications via access to membership information from their own secure portal.

Members have also asked for marketing materials to be produced. These will include certificates and stickers for use in offices and retail outlets, use of the new CISAS logo on headed paper and, in association with Ofcom and Otelo, promotion of the two ADR services via Consumer Direct.

AGM

The first CISAS AGM was held at the IAMC, Bloomsbury Square, London on 12th July 2005. It was well attended by members, and speakers included

- Rosalind Stevens-Strohmann from Ofcom
- Rhys Williams from Bird & Bird (on the Data Protection Act)
- Jane Irvine, CISAS Adjudicator (on the Freedom of Information Act)
- Bryan Petch, Deputy Head of Group Compliance from Telewest (on New Voice Services).

Training sessions also took place during which the adjudicators were kept up to speed with issues relating to member companies and the complaints handling processes they employ.

When operating a service like CISAS it is important to learn lessons on how improvements to the service can be made and then to take action to implement those changes. Working with members, Ofcom, and consumer groups, we will make changes to the service rules for 2006 in order to implement improvements. The new rules will be published on our website and be provided to all enquirers and users, when launched.

The coming year

In all, the coming year promises to be an exciting one for CISAS, during which we are looking forward to developing the service further and continuing to service the communications industry and their consumer and small business customers with our customary independence, impartiality and integrity.



Gregory Hunt
Head of Business Relationships

NOTE FOR MEMBERS:

During 2005 we also launched the **Communications Providers' Commercial ADR Service**, which deals with commercial disputes within the communications sector. This service was developed in association with the United Kingdom Competitive Telecommunications Association, and allows, amongst other things, for small (and large) IT and communications businesses outside the threshold for CISAS (or Otelo) to have their dispute resolved cost-effectively through commercial adjudication, mediation, arbitration or early neutral evaluation. Further details on this service can be found at www.communications-adr.com.

Ofcom Review of ADR Schemes

In July 2005 we saw the publication of the Ofcom review of ADR Schemes. CISAS contributed to the Review, which was for the period 1st January 2004 to 31st December 2004. We are pleased with Ofcom's findings and look forward to implementing the recommendations published within the review report.

Our contribution included detailed analysis of the level and type of use of the service during 2004 and details on how we operate and are staffed.

We welcomed the review report, and we would like to take this opportunity to support Ofcom's wider recommendations to communications providers, which, together with our own Recommendations for Good Practice on page 11, give the industry some real food for thought on how to continue in their efforts to improve services and respond more quickly and efficiently to problems that inevitably arise when dealing with such a large customer base.

A summary of the recommendations and our responses to them is outlined below:

1. Communications providers must improve the way they handle complaints, and tell their customers about the ADR schemes. As soon as they receive a complaint, they should explain their complaints procedure. They should also make sure that it is easy for customers to find their codes of practice, ideally on their website and on customer bills.

We agree that providers should improve the way that they handle complaints, and will be encouraging CISAS members to achieve ISO10001 when it is available during 2006. ISO 10001 will document the international standard for complaints handling and will complement ISO 10003, the standard for choosing an ADR provider. We will also be providing, via the CISAS website, details of each member's code of practice, and those codes applicable to members of ISPA, ITSPA and the FCS. We will include details of dedicated contact points for each member on those pages, and links to members' own websites. We do not agree entirely that members should explain their complaints procedure as soon as a complaint is received. The first action should be to attempt to resolve the complaint, and only upon failure to do so should they then outline the steps still available to the customer. Finally, whilst we agree that details of how to access CISAS should be made readily available in complaints sections on provider's websites and other appropriate communications with customers, we do not agree fully that our details should be shown on bills. It is our experience that showing an ADR provider's details on a bill promotes an increase in enquiries and applications to use the service prematurely, and subsequently does nothing but add to the frustration of the customer when their application is rejected because it was made too early. Furthermore, many internet service providers do not issue bills.

2. Communications providers should use a standard meaning, which we will provide, of what a 'complaint' is. This should make sure that each complaint is accurately recorded and checked for progress. The staff who handle complaints should be properly trained to do so. They should not tell customers to contact us, or suggest the ADR scheme too early in the process.

We welcome the proposal for a standard definition of the word 'complaint' and recommend that Ofcom consider drawing upon the definition in ISO 10001. We encourage the accurate recording of complaints and agree that staff should be trained to deal with complaints properly. Again, this could be accomplished via achievement of ISO 10001.

3. We will work with the ADR Schemes to make sure that our recommendations are actually put in to practice. We will help to develop a system of 'best practice', which providers must agree to as members of an ADR scheme.

We look forward to working with Ofcom and activating the recommendations where appropriate, including the development of 'best practice', which we feel should be in line with ISO 10001 and 10003.

4. The ADR Schemes should publish 'key performance indicators'. These will measure the ability of their staff, how quickly decisions are made and whether customers are satisfied. The schemes should also publish regular reports, with a breakdown of the complaints they receive.

We are currently developing Key Performance Indicators for CISAS and expect to begin to use these by early 2006. We publish this annual report, including statistical information breaking down the disputes that we deal with and incorporating case studies.

5. The schemes should work with the providers to make sure ADR becomes better known. They should focus on people or groups in society who don't use the scheme, and make sure that it is clear and open to all.

When designing CISAS we ensured that it would be open and accessible. It achieved the Crystal Mark for Plain English and is available on-or-offline. In late 2005 and 2006 we will be working with Ofcom and Consumer Direct to further increase public knowledge of the existence of CISAS but strongly reiterate that customers should know of its existence at the appropriate time and do not want to promote it in any way that encourages customers to feel that the first action to take in the event of a complaint is to contact CISAS rather than their provider.

6. ADR Schemes should consider bringing in an independent person to handle complaints about their own processes.

As a division of the Chartered Institute of Arbitrators, we adhere to published complaints handling processes, which will be updated with the publication of ISO 10003. Our adjudicators are obliged to honour a code of ethics and bear scrutiny by our Professional Conduct Committee, which is made up of both ADR professionals and laypersons.

7. ADR Schemes should take action against providers who don't obey their rules. This includes those who fail to handle complaints properly, or who don't accept a scheme's final decisions. The schemes should also tell us about anything that may be unfair to customers.

We will take appropriate action against members who do not obey our rules. In the first instance we will discuss any alleged or actual breach of rules with the member and, if necessary, escalate within the member's management structure until a resolution is found or the member clearly is determined not to remedy the breach. The third stage will see the suspension of the member from CISAS and at this stage we will notify Ofcom (and Otelo) of that suspension.

Review of Recommendations for Good Practice 2004-2005

The recommendations

In 2004 the CISAS adjudicators made a number of recommendations to the companies, suggesting improvements in their business practice in respect of customers and services. Those recommendations were:

1. Members should ensure that once a dispute is referred to CISAS for adjudication, no steps are threatened or taken to enforce payment for sums in dispute against a customer until the adjudication process is complete.
2. The contract / service agreement containing the signature of the customer and all the relevant terms and conditions should always be included in the documents provided to CISAS if not by the customer then by the company. Where signed contracts are not entered in to, relevant contracts or terms of use agreed by the customer should be presented.
3. The company should ensure that the cost of chargeable services, such as Text Play and some calls to free phone numbers and so on, are communicated to the customer by text message (or other appropriate means) on at least the first occasion the customer uses the service.
4. The company should give the customer the option at the time the contract is made of having calls barred immediately if the usage exceeds a given amount.

Two questions now arise in 2005 for each recommendation. *What effect has the recommendation for good practice had?* and, *Has the recommendation for good practice been met?*

The answers to these two questions are as follows.

No steps to enforce payment until after adjudication

There were a considerable number of cases where the company either pursued or threatened debt recovery against the customer even though the dispute between them had been referred to CISAS for adjudication. The effect of the recommendation that no such steps should be taken until after the adjudication process was complete is that the situation now is generally better. The recommendation has been met by the companies if not immediately halting any debt recovery process as soon as a dispute is referred to CISAS, then doing so expeditiously when a particular situation is brought to their attention by CISAS.

However, some companies include within their contractual terms and conditions a clause which provides that they may continue debt recovery procedures whilst the dispute is in adjudication. Such a clause, often introduced into the contract to protect the company's commercial interests, may nevertheless be thought draconian. To achieve full compliance with the recommended good practice, the relevant companies should urgently review such clauses in order to ensure that, once a dispute is referred to CISAS for adjudication, no steps are threatened or taken to enforce payment for sums in dispute against the customer until the adjudication process is complete.

Including the contract or service agreement

One of the most essential documents in any dispute referred to CISAS is the contract or service agreement between the parties. They form the starting point from which adjudicators analyse disputes. Frequently such contracts were not included and they then had to be requested from the parties. The effect of the 2004 recommendation for good practice has been fully met. The contract or service agreement containing the customer's signature and all the relevant terms and conditions are now invariably included in the documents provided to CISAS, if not by the customer then by the company. Where the parties have not used signed contracts, the relevant contracts or terms of use agreed by the customer are presented.

Warning of cost of chargeable services

The costs of chargeable services are often not appreciated by the customer, who is frequently horrified at a high bill correctly calculated by the company for the use of such services. It was recommended that companies should ensure that the cost of chargeable services such as Text Play and some calls to free phone numbers are communicated to the customer by text message (or other appropriate means) on at least the first occasion the customer used the

service. This recommendation for good practice has not been met. There are still no clear warnings by companies for this purpose.

Barring calls when usage exceeds a given amount

A recurring complaint from customers is that the company has not barred calls as soon as there is a sudden and dramatic increase in usage resulting in very high bills, such usage being unauthorised by the customer. It was recommended that the company should give the customer the option at the time the contract is made of having calls barred immediately if the usage exceeds a given amount. The recommendation has not been met. Many companies refuse to provide the customer with such a facility even though, at the time the contract is made, the customer specifically asks for calls to be barred after the value of calls reaches a certain figure.

Our Recommendations for Good Practice for 2005 can be found on page 11.

Recommendations for Good Practice 2005-2006

In order to enable the sector to learn from developments to date, the CISAS independent adjudicators have made the following recommendations for good practice, which they would like to see implemented in due course. These suggestions support and enhance Ofcom's own recommendations from its review of the service, as shown on pages 7 and 8:

1. Companies should review their contract and tariff documents to ensure that clear, simple wording is used that makes them quickly and easily understandable by the customer.
2. The customer should be warned before using a roaming service that he or she will be liable for all charges made by the foreign network and there may be no way to challenge these charges if mistakes are made by the foreign network.
3. An international dialling number should be printed on monthly statements issued by the company to the customer so that the customer can contact the company from abroad in an emergency.
4. Companies should ensure that there is a clear and auditable trail (which can be submitted with their defence documents) showing how the company responded to the customer's communication be it individual requests for assistance or complaints.
5. Companies should ensure that their charging structures are clear and easily available.
6. Companies should publish their complaints procedure; ensuring they are accessible, efficient and easily understood by the customer.
7. Users of the internet commonly make mistakes when changing the access numbers that they use with the company. A common example is where the customer is on one account and for some reason changes the settings so that the customer ends up on a different package with consequential unforeseen charges. It is invariably an error made on the part of the customer. Whilst the adjudicators recognise that instructions shown on company websites on its website may be very comprehensive, companies are invited to consider how they could make their systems such that the customer could not wrongly access a different package to the one for which the customer subscribes.
8. Where a company is aware that a parent is paying for a phone used by a child, confirmation in writing should be sent to the parent relating to any upgrades or other maintenance matters which require activation by the customer on the phone.
9. CISAS members should feed details of CISAS cases into management learning systems to stop the repetition of problems.

CISAS Statistics

During the year 3,255 enquiries were made to CISAS. Of those enquiries, 185 led to the customer making an application for adjudication. This illustrates that only 5% of enquiries led to an application being made. This conversion rate is low, mainly due to the following factors:

- Most enquiries were made too early, before the customer had informed the company that they had a problem or before the customer had given the company the opportunity to deal with their problem. In order to reduce the amount of unnecessary calls, CISAS members should clearly and simply describe the steps in their internal complaints procedure, stating who will deal with the complaint, making clear the point at which deadlock is reached and thus when a customer can refer the matter to CISAS. It is essential that the entire process should be easily available to the customer.
- Many disputes settled once the customer told the company that they were going to make an application for adjudication. This is an often-overlooked advantage of consumer dispute resolution, that is, the provision of a service can in itself lead to the early resolution of disputes without the need for formal recourse to the ADR provider

Furthermore, CISAS receives many complaints about the difficulty of access to providers' help lines and of failure to respond to requests and complaints. CISAS members should keep their helpline and complaints services under review to ensure their customers' concerns are dealt with quickly and appropriately.

It does not always come down to the CISAS members though, as a number of calls are being referred to us via Ofcom and also from customers who are in dispute with members of the ombudsman service (Otelo).

Other interesting facts include:

- Of the 185 cases progressing to adjudication, 64% (119 cases) dealt with disputes with mobile telephone companies, 10% (19 cases) dealt with disputes with fixed line telecommunications companies, with the remaining 25% (47 cases) relating to disputes with Internet Service Providers (ISP's)
- Only 47% of applications were made with a deadlock letter or CISAS reference number. This shows that in over half of cases customers are having their complaints handled slowly by companies who are taking more than three months to resolve matters or to pass them through to CISAS
- 102 cases (55%) were registered online. This shows how the internet is playing an ever more prominent role in managing disputes. In addition, in a majority of cases (even where an online application was not made) the parties used email to correspond, with companies issuing their defences to CISAS online, and adjudicators often communicating with parties direct via email
- 34% of registered cases were settled by the company and the customer without progression to an adjudicator
- In 52% of adjudicated cases, the customer was successful, and, on average, the customer notifies CISAS of acceptance on the decision within 7 days of receipt of the decision
- The settlement rate plus the success rate in adjudicated cases means that 86% of cases referred to CISAS are being settled to the satisfaction of the customer
- The most common types of dispute are:
 - (a) Customer Service (45%)
 - (b) Billing (35%)
 - (c) Technical Service (12%)
 - (d) Terms and Conditions (5%)
 - (e) Other (e.g. mis-selling) (1%)
- Customers applied for a total of £166,813.27 in compensation from the member companies. Of that total, 62% was claimed against mobile operators (who faced 64% of claims made), 11% against fixed line operators (who faced 10% of claims made) and the remaining 27% against ISP's (who faced 25% of claims made). This demonstrates no real difference in amounts claimed in relation to the type of service about which the complaint is made
- The average amount claimed (all claims) was £901.69, or £1,127.11 when only taking in to consideration the 148 claims where the customer actually requested money in compensation

To meet the conditions set down by Ofcom, CISAS must aim to keep to a deadline of six weeks for the completion of cases from the date the customer makes their application with CISAS. Only in exceptional cases can we extend this

target. We are pleased to confirm that our average is just six weeks and two days. This means that CISAS is taking under eight weeks from the date the application is made to the closure of the case file, including the time taken for the customer to accept or reject the decision.

The main reason why the limited extra time was necessary was delays by companies in submitting their defence and / or customers in submitting their comments on defence. Just as in 2004-2005, there were a comparatively large number of cases where either the company or the customer was late submitting documentation to CISAS. This has a knock-on effect due to the very tight timescales. In order to address this, the member companies have been informed that CISAS will now take a much harder line on the submission of late defences, which may result in the case being referred to the adjudicator without any defence.

Therefore, to achieve an efficient and timely procedure it is essential that all documents including the company's defence and the customer's reply should always be provided within the CISAS timetable. Now, companies will need to inform CISAS immediately if a document is likely to be delayed and they will need to make a request, with reasons, for time to be extended. If this is not done then the adjudicator may proceed to a decision without further communication with the parties.

Case Studies

CISAS Adjudicators provide Case Studies on a regular basis. The following case studies are a selection of those during the report period. All case studies are available on the CISAS website.

Case Study 1 - Stolen mobile

The customer's handbag containing her mobile phone was stolen whilst she was on holiday in Seville. Over the next couple of hours whilst the customer was assisting the police with their enquiries and before the company was alerted, the thieves made £150 worth of international calls on the mobile. The customer disputed her liability to pay for them, and entered a new contract with the company for a different phone. The company allocated payments made on this second account to pay off the disputed sums on the first account, then cancelled the second account, charged the customer a cancellation charge and sent a bad credit reference for the customer as a defaulter.

The Adjudicator held that in the circumstances where the customer has a mobile phone stolen together with her money whilst in a foreign country, the strict contractual position that the customer is liable for all calls made until the company has notice of the theft should not apply. In the present case notice was given within a matter of hours. Accordingly, the customer was not liable for the calls made by the thieves. The company had been told that the customer wanted to pay the money to the second account not to the disputed first account. The company was therefore wrong to allocate the money to the first account. The Adjudicator directed that the company credit the customer's first account with the disputed calls, credit her second account with the cancellation charge and restore the service for that phone, pay the customer £500 compensation and ensure that all bad debt entries against her name with any credit reference agency arising out of this matter were removed as if they had never been entered, forwarding to the customer proof that these corrections had been made.

Case Study 2 - Cost of not reporting theft

The customer's handset, which was switched on and not protected by any of its inbuilt security features such as a PIN number, was stolen from his hotel room in Hyderabad, India. The customer did not report the theft until 5 days later because he did not have the company's contact telephone number. Meanwhile the handset was used to make fraudulent calls costing more than £2000. The customer maintained that he should not be responsible for the cost of these calls as he was unable to contact the company. Also as the customer was an infrequent user the company should have realised that his phone had fallen into the hands of unscrupulous individuals and the company should have barred the line.

The terms and conditions of the agreement between the parties were that the customer was responsible for the cost of any fraudulent calls made before the loss of the handset was reported. The Adjudicator did not accept the customer's evidence that because he did not have the relevant telephone numbers he was unable to contact the company for some 5 days. In fact the company's fraud department had intervened and placed a unilateral bar on the line. It was the responsibility of the customer to keep the handset secure. The customer had clearly failed to do this and as a consequence he was responsible for the cost of the calls made after the phone had been stolen.

Case Study 3 - Not told of CISAS

The customer complained he had been placed on an incorrect tariff and had not had a proper response to his complaints. When he had requested records that the company held relating to him he had been wrongly sent data relating to other customers. The company maintained their response had been appropriate, correct action had been taken, the customer had been placed on the tariff he required and his bills amended. The customer, submitting records that the company had provided to him showing their transactions and communications, replied that these proved the company had made mistakes and responded to complaints with inappropriate or misleading advice including failing to advise him of the availability of CISAS. The company had threatened the customer that they would withdraw credits applied to his account if he pursued adjudication.

The Adjudicator found the company's contemporaneous records supported the customer's complaints. He had been connected to the wrong tariff, he had received incorrect and misleading information from the company's staff and he had wrongly been sent records relating to other people. Whilst CISAS can only be used after an internal complaints system was completed, the company had failed to explain clearly to the customer what their complaint system was. Consequently the customer suffered by having to work through a confusing and inefficient process. As to the complaint about threats of credit being withdrawn, the Adjudicator found that where payments were made ex gratia to avoid litigation or adjudication it might be appropriate to make them conditional but great care was required to avoid seeming to threaten any customer. The Adjudicator decided the customer should receive an apology and £500 compensation.

Case Study 4 - Unconnected events

The customer had an Anytime account with the company which gave him unlimited access to the internet for the payment of a monthly fee. The customer was being assisted in his business by a relative. One day the customer's relative, whilst using the computer, found that he could not access the internet and contacted the company's helpline. They misinformed him. This resulted in the customer registering for a new Pay As You Go account. The customer used the new account for three months thinking he was using his Anytime account. When he received a bill of £1,950 he complained this was the fault of the company who should compensate him for that amount.

The Adjudicator dismissed the customer's case because there was a two month period between the date when his relative had contacted the company's helpline and the date the Pay As You Go account was registered. It followed that the two events were completely unconnected. The Pay As You Go account had been completed by the customer's relative and his name had been registered as the username. The customer would have been able to and should have identified when going online that he was accessing the internet not by his Anytime package but by the Pay As You Go account.

Case Study 5 - Unreasonable claim

The customer sought £1,200 compensation for time spent trying to resolve difficulties in getting the company to correct problems he experienced in receiving text messages. The company, who were only contracted to provide a SIM card for text messaging on a Pay As You Go basis, had been unable to resolve the problems despite technical investigation. The company suggested the claim was unreasonable because it had offered the customer reimbursements, a replacement SIM card and compensation.

The Adjudicator decided the problems could have had many causes and the company had acted as reasonably as could be expected in trying to correct them. The customer always had the option to move to another provider. The customer had neither proved that the company had failed in duties owed to him nor that they had caused his loss. The amount claimed by the customer appeared excessive, and he was not entitled to compensation.

Case Study 6 - Creating problems

The customer sought £5,000 compensation complaining she had been wrongly charged an annual fee on two contracts with the company. The company had wrongly recorded monies not in fact due as, '*in dispute*', rather than, '*not due*', which led to the customer being refused a third phone upgrade. Wrongly assessed later accounts resulted in the company suspending services and after much communication to resolve problems they instructed debt collectors. The company said they had tried to resolve problems and the customer was due to pay for services used.

The Adjudicator found the customer's consistent account of problems was supported by the company's records, invoices and in part by their admission of fault. The company had created problems by wrongly invoicing the customer annually in advance, making billing mistakes, not providing accurate bills and wrongfully suspending services. Also, the company had not properly used the direct debit facilities given by the customer and instead had instructed debt collectors. The Adjudicator decided the company was in breach of explicit contract terms by billing the customer annually in advance and in breach of implied terms by failing not only to provide accurate invoices or advice as to sums due but also not using the direct debit facility efficiently. The company had caused the customer foreseeable loss through forcing her to endure the inconvenience and cost of having to repeatedly correspond with together with vexation through loss of services. The company should apologise, pay to the customer £1,000 compensation, provide the customer with a credit note for all outstanding service costs and offer her freedom from contracts with them without penalty if she required this.

Case Study 7 - Misleading

The customer complained that the company had not supplied him with the correct handset and his call tariff was different to the one which he had agreed with the salesperson whom he believed had misled him to earn commission. The company insisted the customer had received the handset he ordered and he was put on the correct tariff, the tariff the customer alleging he had been sold did not exist.

The Adjudicator decided the company's salesperson (for whatever reason) had misled the customer into believing that he had purchased a different handset and tariff to the one that was actually supplied. Before the adjudication the company had repeatedly informed the customer that they could not provide the tariff that he was misled into thinking he had ordered. The company put forward various ways by which the dispute could be resolved. However, the customer persisted in seeking the initial tariff and it was this persistence that prolonged and complicated the dispute between the parties. The Adjudicator found that the £2,650 compensation sought by the customer was excessive and decided after taking everything into account that £350 was appropriate.

Case Study 8 - Teenager's contract

The customer's 14-year-old son used her telephone line to access the internet and purported to open an account with the company under which time spent online would be charged to the customer's account. He then used the internet using this account. The customer claimed that she was not liable for this contract as it was a contract entered into by a minor.

The Adjudicator found that the customer was liable. A contract with a minor is generally voidable not void. As the son had used the account and incurred charges on it, the contract could not be set aside. Ultimately the customer is responsible for the use made of her phone line by her son. Accordingly the charges on the account were properly payable.

Case Study 9 - Call barring

Following high usage of her mobile on one day by the customer, the company attempted to contact her by phone to check that she had authorised the use. The company could not contact her because her line was constantly engaged. The company therefore put call barring on her line as a precaution against fraud. When the customer then contacted the company and told them that the use was indeed authorised, the company insisted that she pay a large proportion of the outstanding sum before it agreed to unbar the line.

The Adjudicator held that if the company had not barred the line and the use had been fraudulent then the company might have been subject to some criticism. Both as a matter of contract and as a matter of public policy the company was entitled to do what it had done. Further, as a matter of contract, the company was entitled to use call-barring as a means to secure payment of outstanding sums. The customer's complaint was therefore dismissed.

Case Study 10 - Poor reception

The customer complained about exceptionally poor reception in his home area for six months. On several occasions the company told him that a mast was down and that it would be fixed on certain dates. However the problem was still not resolved and the mast continued to be at fault. The customer also considered the company had handled his complaint poorly.

The Adjudicator found that as the company did not guarantee uninterrupted coverage or coverage within a particular area there was no breach of contract. The service coverage needed to be improved and the company planned a number of new transmitters within a 3-mile radius of the customer's home. The company did have a duty to provide a reasonable level of customer service, to respond to complaints and to take them seriously. In the circumstances the company's operators should have shown a greater degree of understanding and sympathy as the customer was genuine in his complaint. He should have been offered early release from his contract and provided with more information on future plans, signal strengths within his area and planned downtime so he could make an informed decision.

Case Study 11 - Use security features

The customer mislaid her handset. She only discovered that it was missing 26 hours later. By this time her handset had been used to make unauthorised calls costing £580. She asserted that she was not liable for the cost of these calls as the company would profit by the fraudulent use of her handset and as a consequence they were in breach of the *Proceeds of Crime Act 2002*. The customer complained that the company's Terms and Conditions, which imposed liability on her, were unfair and that in any event the Terms and Conditions protected her because her loss was not foreseeable. She also complained that as she was an infrequent user of her handset its inbuilt security features were too difficult to understand and apply.

The Adjudicator held that the company were simply fulfilling their contractual obligations in providing a service to the customer and it could not be said that they were in breach of the *Proceeds of Crime Act 2002*. The company's Terms and Conditions were not unfair and it was reasonably foreseeable that an unprotected handset would be used if unscrupulous individuals found it. Applying the security features to the handset was not difficult; it was something that even an infrequent user should be able to understand. Indeed, the Adjudicator remarked that it may be more important for an infrequent user to protect their handset as any loss or theft of their handset may not be discovered as quickly as the loss or theft of the handset of a frequent user. The Adjudicator decided that the customer was liable for the cost of the unauthorised calls.

Case Study 12 - The importance of records

The customer complained that not only had the company wrongly advised him that GPRS charges were the same outside as within the UK and that his account would be limited to a pre-paid amount but also during the course of the dispute the company had cut off service. The company refuted this by referring to its call records and the customer's usage after the company had sent invoices to the customer detailing charges. A refund had been made by the company up to the time when invoices clarifying charges had been given; the customer's account had only been

suspended after the refund and after a series of invoices following regular usage. The company also highlighted that the customer was a long standing and sophisticated user of services who should have known where to access details of charges and that any charges would be higher overseas.

The Adjudicator noted that the customer had been a long-standing customer and records and other documents in their Defence supported each point highlighted by the company. The claim was dismissed.

Case Study 13 - Solving problems

The customer complained that during late spring and early summer she was receiving incoming calls which the company's automated answering service would intercept. Consequently the customer had to pay artificially high bills because she had to retrieve the messages and then return the outstanding calls. The customer considered that the company did not deal with the complaint at all well and wanted the company to undertake a complete review of their complaints procedure particularly how they handled the intervention of regulatory bodies. The company, on the other hand, believed they had done everything possible to assist the customer. The company had asked the customer to contact their customer services so that they could undertake diagnostic checks on her handset but she refused. The company then requested her to send the handset back to them so that they could carry out the checks; again she refused asking for it to be sent to the manufacturers.

The Adjudicator, after reviewing the substantial amount of correspondence between the customer and the company, decided that the company had dealt with the customer's problems in an appropriate manner. The customer had not only refused to call the company's customer services but her refusal to send the handset to the company for them to carry out a diagnostic check was unreasonable. The company had dealt with this matter relatively promptly and they had not deliberately withheld the existence of CISAS from the customer.

Case Study 14 - Genuine mistake

The customer re-graded from an uncapped 512k package to a package capped at 1GB / month. When signing up he checked the company's website and particularly the section on frequently asked questions (FAQ). The 1GB usage referred only to download so the customer understood that he was not going to be charged for upload. The company charged for uploads. Realising they had made a mistake in the wording of FAQ, the company changed their website a month later. The customer refused to pay for upload usage and cancelled the contract. Although the amount of compensation claimed by the customer was not criticised by the company there was deadlock between the parties.

The Adjudicator found that information contained on a website should be taken in its entirety, and it was reasonable for the customer to rely on information in the FAQ and that this would form part of the offer. The customer had purchased a service that included download charges but not upload. However, a provider can correct a mistake provided it is a genuine mistake and give compensation if a consumer loses by the mistake and can demonstrate he placed reliance on it. The Adjudicator decided that the company did make a genuine mistake and it was reasonable for them to correct the mistake. It was also reasonable for the customer to be compensated if he had suffered loss having placed reliance on the company's information (which he clearly did) as effectively the company breached the terms of the contract. Fairness is a general principal, so it is unreasonable for a consumer to gain a benefit indefinitely or take unreasonable advantage of a genuine mistake. The Adjudicator decided that compensation should be calculated on the basis of all upload charges incurred by the customer from the date he re-graded until the date of cancellation of the contract, the amount to be capped at the amount claimed by the customer in his CISAS Application Form.

Case Study 15 - Lost emails and business

The customer complained that for about 3 months there were continual problems with email forwarding to his two addresses resulting in lost emails and business. The company was unable to resolve the problems. The customer, believing that the company had provided poor customer service, transferred both domains.

The Adjudicator decided the company was in breach of contract for failing to supply a working service to the customer within a reasonable time, for which the company should apologise. The company was responsible for the reasonable losses of the customer which were directly caused by this breach of contract. However, the customer had not provided sufficient information to justify his claim of £4,032. There was some loss and inconvenience for which the Adjudicator awarded compensation of £250.00 in addition to a full refund (as offered by the company in their defence) of all payments made by the customer for the services during the 3 months of problems.

Customer & Member Comments

Customer Comments

"You don't know how happy this has made me! Because of your help I will be saving approximately £50 a month now I have the service plan I requested. Thank you for all your help it is very much appreciated – well done." **Miss A, Oxfordshire**

"I finally got the cheque for £300...Thanks to you. It was like getting blood out of a stone. Took a year. But we finally got a result." **Mr B, via email**

"Firstly, thank you for your intervention in the recent dispute we had with X, it is greatly appreciated, people don't say thank you enough in today's society – so thank you." **Mr C, Manchester**

"May we thank you for your excellent assistance on this...problem". Mr D, via email

"Thank you very much for your assistance in this matter. I received a call from [company] and they confirmed that the overcharge has been refunded. I am happy the case has been settled. Thank you". **Ms E, via email**

Member Comments

"Telewest is pleased to note Ofcom's re-approval of CISAS. We are confident that the scheme offers a valuable, independent and effective alternative for the small number of customers who are unable to resolve their disputes directly with us. Our experience to date shows that the decisions made by CISAS are fair and balanced; helping us to continually improve the overall service we offer to our customers."

"We [Wanadoo] are very pleased with the service provided by CISAS. We have seen the scheme develop to the satisfaction of customers. Their professional approach to dispute resolution has helped our company to improve our complaint handling procedures and increase customer satisfaction."

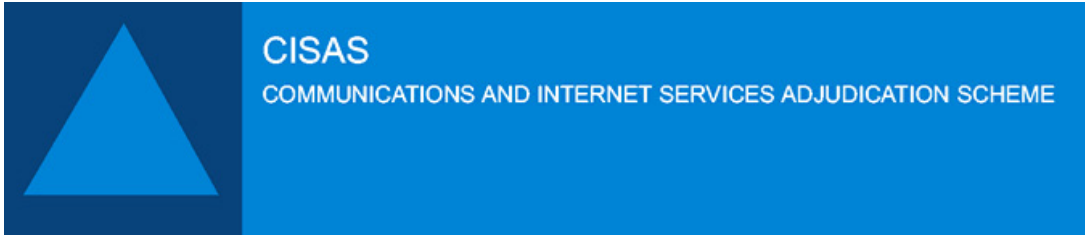
"T-Mobile endeavours to resolve all issues raised by its customers at the earliest opportunity through its own Customer Services Teams but recognises that in exceptional circumstances complaints and issues raised may not be adequately resolved to the customer's satisfaction. Whilst T-Mobile naturally hopes that none of its customers will find themselves in a position of having to utilise the Scheme, we consider that the CISAS Scheme offers those customers who feel that their dispute with T-Mobile has not been adequately addressed, an easily accessible and simple to use independent dispute resolution service which is undertaken and administered by CISAS in a professional and efficient manner."

"EARS plc joined CISAS to fulfil requirements needed to complete the Federation of Communication Services' Code of Practice. As a CISAS member, EARS plc can assure our current and prospective clients of our professional approach to solving disputes should they arise. CISAS have kept EARS plc updated with news of their business since joining, and have an informative website which is ideal for companies wishing to join an Ofcom approved dispute resolution scheme."

CISAS Membership (at 31st August 2005)

- 011 Communication
- 0800Dial
- 2pm Technologies
- 3g Comms
- 4TheNet
- ABC Internet Limited t/a BroadSurf.co.uk
- Accentuk
- Adweb
- Aerofone UK
- Altohiway
- AOL
- Astron Communications
- Atlas Internet
- Audanet.com
- Avecho
- Be Unlimited
- BISCit Internet
- Blue Carrots
- Blue Ridge Telecom
- Boltblue
- Bon.net Limited
- Breathe
- Brightview
- Broadband Billing
- Bush Internet
- Business Serve
- C2 Internet Limited
- Bulldog
- CallnetUK
- Care4free
- Chess Plc
- Clara.Net
- Community Internet
- Davidbowie.co.uk
- Dialstart
- Directonline.net
- Domain Names GB
- EARS Plc
- Easy-Dial Limited
- EasyMobile
- Eclipse
- Entanet
- Epulse.net
- EurISP Limited
- Exponential-e
- Farmers Weekly Interactive
- Fastnet
- Fiaxon Limited
- Firefly Freecom.net Ltd
- Freenetname
- Fusion Media Networks
- G. Comm
- Gamma Telecom
- Global Internet
- Gossiptel
- Gradwell Dotcom Limited
- GreenNet
- Hedgehog Broadband
- Hi-Velocity
- HomeChoice
- Hotlinks Internet Services
- ic24
- Idzero.co.uk
- Inet Telecoms Limited
- Infinet.co.uk
- Intercity Mobile Communications Limited
- Internet Central Ltd
- Internet Services (EU) Ltd
- Jings
- KeConnect Systems
- Kencomp Internet Limited
- Kijoma Solutions Limited
- Kingston Communications (Hull) plc
- Legend Internet
- London Voice & Data Exchange Limited
- Macunlimited
- Madasafish
- Magrathea Telecommunications Limited
- Mailbox Internet
- Minsitryofsound.net
- Mistral Internet
- Modern Communications Limited
- Moving-Edge
- MWFree (Micro Warehouse)
- Myisp.co.uk
- Namesco
- NASCR
- Nasstar Ltd
- NatWeb
- NDCNet (NDC Health)
- Net Connex Broadband Ltd
- Netcom UK
- Netmatters
- Netplan Internet Solutions
- Netway 2000
- NewNet
- NewVoiceMedia
- Norfolk Internet
- OA5.com
- On-Line Marketing & Sales Ltd. t/a Swift Internet
- Optic Communications
- Orange Personal Communications Limited
- PageOne
- PAS Communications t/a Orangetrack.co.uk
- Phonecard Services Limited
- Pipex Plus.net
- PlusNet
- Progressive Networks
- Research Machines
- RICS
- Scotland Online
- Sentiro
- Sky Blue Telecom
- Solutions Inc t/a Freedom255.com
- Straight Away
- Supanet
- Surfaid (Christian Aid)
- TALLYCoST
- Tariff Reduction Services Ltd
- Telappliant
- TeleCity
- Telecomplete Limited
- Telewest
- Telewest BlueYonder
- Tellnet
- Thehornets.net (Watford Football Club)
- Timewarp
- Timico Limited
- Tiscali
- T-Mobile (UK) Limited
- topletter
- Tory.org
- Totalise
- Totalserve
- UKFast.Net Limited
- Universal Telecom
- UTV Internet
- Vianetworks
- Viatel
- Video Networks Limited
- Vision ISP (Donate As You Surf)
- Vodat Solutions Limited
- Voicenet Solutions Limited
- Voicestream Networks Plc
- VOIP Communications
- VoIP Solutions Limited
- Waitrose.com
- Wanadoo
- Websights
- Wensum.net
- West Dorset Internet
- Xconnect
- XIFOS Ltd
- Yahoo!uk
- Yesmate
- Zen Internet

Please see the website for membership updates and for information on how to become a member of CISAS.



Operating with independence, impartiality and integrity