

## Case Studies

### Case 01

#### No defence: consequence

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C<sup>1</sup> complained that he had paid for 2 years line rental and the cost of a modem but without any prior notice T cut off his ADSL service. C tried unsuccessfully to contact T. The Adjudicator accepted C's claim for compensation together with a refund of the line rental which T had not challenged by way of a defence. Four months after the Adjudicator's Decision had been made; T objected, referred to a document that had been submitted by C in his claim and alleged C had not been its customer but the customer of a third party.

**A consumer may make a claim which may or may not be genuine. It is the choice of T whether to accept the claim or defend it. There may be many reasons why T would not submit a defence, for example, T accepts the claim, T considers it is not commercially worth its while to defend the claim in relation to the value claimed or T can simply choose to ignore it. If T does not submit a defence challenging the allegations of C then it is an action which an Adjudicator may take into account in reaching a Decision. However, C must still prove on the balance of probabilities that his claim is genuine.**

**In this case, the Adjudicator was satisfied on the balance of probability that whilst there were inconsistencies in C's claim there was merit in it and made a decision in favour of C. If the case was of any concern to T at the time it was advised of the claim, T could have made a Defence simply stating, 'C is not a customer'. By not stating this T ran the risk that it would be implied C at the very least was a customer of T. The document T had referred to four months after the Decision was made was not clear, nor was its status and relevance. T had had the opportunity to clarify the documents in a Defence which T had chosen not to do. C was able to demonstrate that there was some link between T and the third party.**

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

## Case 02

### No defence: broadband defective

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C followed the advice of T's technician but the broadband service of T could not be made to work. C believed that because the service did not work after four weeks of activation, then under T's terms and conditions the contract was terminated (the termination clause). C switched to another broadband provider and the alternative service worked. After three months T requested £35.00 for outstanding charges. C asked for an itemised bill which arrived three months later. T then sent another itemised bill which included a charge for one year's broadband usage. A few weeks later C received a request for £489.35 from T's debt recovery agent. C tried to discuss the matter by telephone and wrote to T but T did not reply to the correspondence and refused to discuss the matter by telephone. T did not submit a defence.

**The Adjudicator accepted C's claim that as the broadband service was defective all charges for broadband should be waived, the broadband contract cancelled and the debt recovery action ceased. T should apologise to C for poor customer service concerning the three month delay for an itemised bill and the lack of response following C's attempt to query the £489.35 bill. A new invoice was to be prepared by T without the broadband charges and C should pay the outstanding sums properly due. C was partly responsible for causing the dispute because he did not tell T that he was ending the contract after four weeks because the service did not work. The termination clause only related to T terminating the contract by sending a notice that the service could not be fully activated. As C was partly at fault, no compensation was awarded.**

## Case 03

### No defence: tariff

#### No defence: tariff

C complained that the tariff price for her combined phone and broadband package was £10.00 more than the most expensive tariff price on T's website, that a CD Rom she had requested was not received for a month rendering the broadband unusable and an agreed downgrade requested some 5 months earlier had not been actioned by T. T, who did not submit a Defence, maintained that all C's requests had been fully met. C disagreed.

**The Adjudicator decided that not all C's requests had been actioned by T and confirmed C's requests for an apology, an explanation, a downgrade to the agreed package, reimbursement of charges paid, a credit for the month C was without a broadband service and £500 compensation.**

#### Case 04

#### Service interrupted

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C complained when the service on the analogue telephone line he rented was interrupted on three occasions for a few days. He claimed lost fee income, additional mobile telephone charges and line rental paid for when the line was not working. T argued that no compensation was due for such short periods of interruption, an exclusion clause in the contract provided that T was not responsible for any consequential loss, and the amount of compensation claimed by C was out of proportion.

**The Adjudicator decided that the exclusion clause was valid and C was not entitled to recover the loss of fee income. The additional mobile telephone charges arose directly and naturally from the breach and were recoverable. C was entitled to an abatement on charges for the time the telephone line was interrupted.**

#### Case 05

#### Marker not removed

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T's broadband wireless and talk service to C was disconnected because of system failures which T could not give a date for resolving. C gave notice of cancellation. She asked for and received a MAC code but complained that she was unable to transfer to another provider as the marker on the telephone line which provided the service had not been removed 4 months later. C was later able to transfer to a cable provider. C sought an explanation and claimed £349.28 for the connection charge, telephone calls, alternative internet charges and stress. T, accepting some responsibility for telephone and connection charges, offered a goodwill payment of £200.00 which C declined.

**The Adjudicator found a breach of contract by T due to the admitted delay in removing the marker from the line and awarded C £227.28. An explanation beyond that which T gave in its defence would serve no useful purpose.**

#### Case 06

#### No defence: overcharge

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C complained of T's unilateral decision to upgrade C's broadband package and tariff from £12.99 per month to £14.99 per month resulting in overcharges to C. C's attempts to draw the errors in charges to the attention of T were initially not successful. T later admitted it had erroneously upgraded C's broadband package. By this time, C had lost confidence in T and had decided to migrate to another service provider. T did not provide a defence.

**The Adjudicator found C credible as most of his allegations were supported by bills, emails and letters from T. C was entitled to terminate the contract and be discharged from the contract without penalty. C's modest claim for £100.00 was sufficient to compensate**

him for the anxiety and inconvenience he had gone through. The Adjudicator was not satisfied that there was any further need for T to give an explanation or an apology to C.

## Case 08

### Broadband to new home

#### Broadband to new home

C complained that T had not transferred his broadband service to his new home at the line number he requested and did not keep him advised of why there was a delay of nine weeks. T said they had tried to move C, but when they placed the move order they learned there was already a user on his line. There was nothing they could do about this.

**The Adjudicator decided that C had ordered the move later than he claimed. T had kept him advised of progress, had chased to transfer his service, but as there was a user on his line already they simply could not transfer his broadband to the line he requested be used.**

## Case 09

### Cash back

#### Cash back

C complained that the dealer who sold him a phone package with T offered him a cash back deal which was not honoured. He maintained that T was liable for not intervening. C stopped payments to T and claimed he had suffered illness as a result of T's debt collection and credit record actions.

**The Adjudicator decided that the claim failed as it had been made plain to C that the cash back offer was made on the dealer's behalf alone and T was not liable. Also, the bulk of the claim was effectively a personal injury claim, which was outside the scope of CISAS.**