

THE CODE COMPLIANCE PANEL OF PHONEPAYPLUS TRIBUNAL DECISION

Thursday 28 October 2010 TRIBUNAL SITTING No. 65 / CASE 1
CASE REFERENCE: 834903

Service provider:	Cash Finance Direct Limited trading as Horizon Finance
Type of service:	Live service
Service title:	'Horizon Finance loan broker'
Service number:	09064001800 and any other number used in relation to this service
Cost:	£1.50 per minute
Network operator:	Cable & Wireless UK Limited
Number of complainants:	31

THIS CASE WAS BROUGHT AGAINST THE SERVICE PROVIDER UNDER PARAGRAPH 8.5 OF THE CODE

BACKGROUND

PhonepayPlus observed an increase in members of the public using the PhonepayPlus Number Checker service and received 31 complaints in relation to a loan broker known as 'Horizon Finance', operated by Cash Finance Direct Limited (the Service Provider). PhonepayPlus subsequently investigated the service.

The Service Provider operated a live service offering loan broker arrangements, a category of service that requires prior permission under paragraph 5.1.1 of the PhonepayPlus Code of Practice 11th Edition Amended April 2008 ('the Code'). The Service Provider had held a Prior Permission Certificate for this service since 1999.

The live service was promoted in various ways and consumers were encouraged to call '09' premium rate numbers to make applications for loans. The Service Provider forwarded their details to lenders, where appropriate. It was then for the lenders to contact consumers directly, if they wished. Not all consumers were contacted. Cash Finance Direct Limited offered a 100% refund of the premium rate charges where loans were not secured or where the consumer was dissatisfied with the service.

PhonepayPlus was concerned that the service had been operated in a way which did not meet the conditions set out in its Prior Permission Certificate. It was also concerned that the service had contravened the Code.

The Service

Initial promotion

Cash Finance Direct Limited obtained approximately 1,500 new 'leads' (the personal details of consumers seeking a loan) on a daily basis from various sources, such as web-based loan finder services and other data aggregators. These details were used to market the service directly to consumers via letter, mailshot, email or outbound phone call. The service was also advertised on the internet via the company's website, which offered the chance to call the application line using the premium rate numbers or to send in a written application.

The main service

Once the consumer had received marketing inducements from one or multiple promotional campaigns, he or she could call the '09' number advertised and answer questions with an operator. The Prior Permission Certificate referred to this as the 'main service'. Upon calling the premium rate number, the caller would provide his or her loan requirements and the personal details that are essential for passing on to potential lenders. At the end of this fact-gathering exercise, the operator would inform the user that *"what you need to do is ring us back in one hour for a decision to find out who the lenders are and what they have said"*. This has been referred to as 'the results service'. The prior permission provided that the 'main service' should last no longer than 15 minutes, and it was scripted by the Service Provider to last 15 minutes.

Cash Finance Direct Limited would then send the details of those interested in a loan to the lenders that it considered appropriate. Those lenders would then typically require the user to go through their own application procedures. The lenders would contact the users directly, if they thought it appropriate to do so, regardless of whether a person rang the 'results service'.

The results service

The 'results service' included the cross-promotion of another product and further and/or duplicate fact-gathering, which extended the length of the call. Towards the end of the 'results service', users were given the names of the lenders to whom their details had been sent. It did not give a decision on whether a loan was to be offered. Users were typically told that the lenders would be *"calling you in four to five days"* or *"it can take them up to five working days to get a definite answer to you"*. The prior permission provided that the 'results service' should last no longer than 10 minutes, and it was scripted by the Service Provider to last 10 minutes.

Refunds

The cost of the service was advertised as fully refundable, if a consumer was unhappy with the service or was unsuccessful in obtaining a loan as a result of contacting the service. This offer of a full refund was beyond that which was required by the Office of Fair Trading, as reflected in the Prior Permission Certificate

The Investigation

The Executive conducted this matter as a Standard Procedure investigation in accordance with paragraph 8.5 of the Code.

The Executive conducted a preliminary investigation into the Service Provider's service on 20 April 2010. The Service Provider provided responses to the Executive's requests for information. The Executive issued a breach letter on 17 September 2010.

The Tribunal made a decision on the alleged breaches raised by the Executive on 28 October 2010, following an Informal Representation by the Service Provider.

SUBMISSIONS AND CONCLUSIONS

ALLEGED BREACH ONE (Part 1)

PRIOR PERMISSION (Paragraph 5.1.3)

"A breach of any condition imposed in connection with a permission granted by PhonepayPlus in accordance with this Code shall be a breach of the Code."

Specific conditions 3b states that:

“The service must make clear within the first two minutes of the call that acceptance of loans is not guaranteed...”

1. The Executive made reference to the operator’s script in relation to the ‘main service’ and noted that it did not provide for users to be told within the first two minutes that acceptance of loans is not guaranteed. It noted that, after about 17 minutes of the combined ‘main service’ and ‘results service’, the script provided as follows:

“As you are probably aware by now we are a finance broker, which means we don’t actually lend you the money ourselves, but we hope to put you in touch with a company that will.”

The Executive submitted that it had raised this matter in its information request letter, dated 9 June 2010, and made reference to the Service Provider’s response, which was as follows: *“We do not use the word guaranteed in any part of our inbound or outbound scripts or any other promotional material to promote the success of any loan enquiry in order that we eliminate any form of confusion or misrepresentation by the users of our service.”* The Service Provider referred to the words that appear in the script for the ‘main service’, which provides for the user to be told: *“As we deal with many household lenders, we are unable to quote specific interest rates, monthly payments etc. This will be discussed directly with the lenders we find for you.”* This information is scripted to be given after the first two minutes of the ‘main service’ and, in any event, fails to satisfy the prior permission condition that acceptance of loans is not guaranteed.

2. The Service Provider stated that its original permission certificate had been granted over ten years ago and that, over this time, there had been many revisions to the Code. It stated that the guidelines and requirements for various services had undergone enhancements over this time and that, as a Service Provider, it was expected to monitor and employ these changes and enhancements. It stated that it had made every effort to update the service it offered to ensure that it complied with the latest requirements and had relied on the Fact Sheet for Consumer Credit Services, published and uploaded to the PhonepayPlus website on 29 October 2007, as the most current and relevant fact sheet available. It stated that a copy of the inbound script had been supplied to PhonepayPlus on 31 October 2007, and that this script had later been presented to the panel for adjudication and had resulted in an increase in tariff being granted from £1.20 per minute to its current £1.50 per minute rate. It stated that this script had also used the condition required in the Fact Sheet and that of specific condition 3b in the original licence, as this was the guidance that had been provided by the PhonepayPlus in relation to consumer credit services.

The Service Provider assured the Executive that it would not choose to omit this statement to create the misapprehension to its callers that it was able to guarantee placement with a suitable lender, it had merely followed the guidelines within the most up-to-date Fact Sheet on Consumer Credit Services.

It stated that it had not received a single direct complaint from over 460,000 callers to its service (since the submission of its script to PhonepayPlus in October 2007) to suggest that any one of them had been under the illusion that it guaranteed any loan offer.

It stated that it would fully co-operate at all times and implement any requirement; therefore, any calls made to the service would confirm within the first two minutes

that it was a finance broker, and that it could not guarantee the acceptance of a loan. The Service Provider stated that it would undertake to retain this wording within its script and liaise with PhonepayPlus on a regular basis to ensure that would be fully up to date with any changes or requirements to the consumer credit service.

3. The Tribunal considered the evidence and the Service Provider's acceptance of the breach during its Informal Representation. It concluded that the Service Provider had not made it clear within the first two minutes of a call that the acceptance of a loan to the consumer was not guaranteed. The Tribunal upheld a breach of paragraph 5.1.3.

Decision: UPHELD

ALLEGED BREACH ONE (Part 2) PRIOR PERMISSION (Paragraph 5.1.3)

"A breach of any condition imposed in connection with a permission granted by PhonepayPlus in accordance with this Code shall be a breach of the Code."

Specific conditions 4a states that:

"Only one trading name should be used."

1. The Executive submitted that the service had been promoted using a variety of methods, including the use of outbound calls made by 'Horizon Finance' staff or third parties representing 'Horizon Finance'. The Executive made reference to a script associated with this aspect of the service that read as follows:

"Ok the great news is we are able to help. One of the UK's largest unsecured loan companies, Cash Finance Direct, will be able to finalise your application."

The Executive submitted that specific condition 4a of the Prior Permission Certificate had been included to avoid the situation that had arisen in relation to this promotional technique. It stated that the action of placing a consumer on hold prior to the apparent referral had suggested that the Cash Finance Direct Limited was independent of 'Horizon Finance' when, in fact, the latter was a trading name of the former.

The Executive submitted that the reference to 'Cash Finance Direct' in the course of a promotion by, or on the behalf of Horizon Finance, was in breach of specific condition 4a of the Prior Permission Certificate and it followed that there had been a breach of paragraph 5.1.3 of the Code.

2. The Service Provider stated that the use of two names had not been intended to confuse or build up the reputation of the service offered by Cash Finance Direct Limited.

It stated that the role of the freephone, or any script employed by itself or a third party, had been to generate cost-effective loan enquiries to the service. It stated that, if it had chosen to use a separate entity to perform this function, for example, a third-party marketing company whose role was to qualify these leads by asking the questions within the script before promoting the service, it would have formed exactly the same process, and it would have been logical for them to use a different name other than Cash Finance Direct Limited.

The Service Provider stated that many companies existed, including affiliate sites that were created purely to perform this task and generate traffic to various other premium rate services in exchange for a commission or cost per call, and the customer would still be given two separate names despite the relationship between the two entities.

It stated that the action of placing the consumer on hold was merely to ensure that the initial pre-qualifying questions been asked, verified, and recorded by the computer database, before the service was promoted.

It stated that any caller who failed this pre-qualifying series of questions had been declined and the premium rate telephone number had never offered to this category of caller. It stated that any computer database would take at least a number of seconds to present, record and display feedback to the agent that it was acceptable to promote the service to the qualifying caller, and that a spike in calls or particularly busy network traffic would inevitably result in a further delay in displaying this 'pass' or 'fail' message to the agent.

The Service Provider stated that it prided itself on a professional working ethic and had done so from the outset. It stated that it considered appropriate to place the caller on hold until the qualifying decision had been presented to the agent, so avoiding typical noisy call centre background conversations or perhaps sensitive information being overheard by other agents or callers to the service, such as agents reading postcodes or telephone numbers back to clients.

It stated that it would fully co-operate at all times and implement any requirement. It further stated that the only name it would use for calls generated to the freephone service within its call centre would be 'Cash Finance Direct' to ensure that the caller is in no doubt that the same company answering the freephone call is the same company promoting the premium rate service.

3. The Tribunal considered the evidence and the Service Provider's acceptance of the breach during its Informal Representation. It concluded that the Service Provider had, in its promotions, referred to 'Cash Finance Direct', where freephone calls were already associated with 'Horizon Finance'. The Tribunal found that more than one trading name had been used and that this amounted to a breach of specific condition 4a of the Prior Permission Certificate. The Tribunal upheld a breach of paragraph 5.1.3 of the Code.

Decision: UPHELD

**ALLEGED BREACH TWO
FAIRNESS (MISLEADING) (Paragraph 5.4.1a)**

'Services and promotional material must not mislead, or be likely to mislead, in any way'

1. The Executive submitted that there had been alleged breaches of the paragraph on the following grounds:

Ground 1

"Pre-processed your application"

The Executive made reference to the copy letters and emails that had been provided by the Service Provider, which had been sent directly to consumers

advertising the Cash Finance Direct service and the '09' numbers used by the finance broker (the Service Provider).

It submitted that in this material the Service Provider had used the phrase "we have pre-processed your application" and quoted a specific sum of money in terms of loan amount, such as £1,000 or £5,000. The Executive noted, however, that there was no evidence from the material provided or the general description of the service that any applications were 'pre-processed' prior to a consumer calling the 'main service' on the '09' number and providing their details to an operator.

The Executive made reference to consumer complaints and submitted that comments made by the complainants suggested that guarantees had appeared to have been explicitly or implicitly given by the operator during the course of phone conversations. It made reference to the following consumer complaints:

- 1) *"Consumer called to say he was not happy for the following reasons: he was initially told he was approved of the loan; it was only at the end of the first conversation he was made aware he needed to call another prn; he was told the loan was not approved, after making his second call to the prn."*
- 2) *"Consumer called to say he was approached via mail telling him he had been pre approved for a credit card, All he needed to do is call a prn, the cost of the call will be refunded his first call lasted 15mins, he was asked to call another prn 09064001800 his credit card will be dispatched within an hour he was told to call in an hour he called back and they told him his details had been forwarded to various companies and was told his card will be dispatched that day, they also told him if he sent in a copy of his phone bill they will refund him for the calls he had made to the prns. He subsequently found out he will be refunded within 28 working days the 2 calls cost just over £40. Over the next 10 days he was contacted by 5 different companies offering him loans in which he did not want, he also had companies asking him to reduce his credit he was not contacted by one credit card company. He made it abundantly clear he did want his personal details passed on to anyone apart from credit card companies. Consumer did speak to a manager going by the name of Rob he refused to give his surname, and said he will be refunded for the prn calls he made. Consumer never received a credit despite the language constantly used 'Guaranteed a credit'."*

The Executive submitted that the use of the expression 'pre-processed' in direct marketing (sent to an individual's postal address or personal email address) had misled, or was likely to have misled, consumers as to the nature of the work undertaken by the Service Provider and the general likelihood of success in securing a loan via the service.

Ground 2

The use of the word 'underwritten' in an email sent after completion of the 'main service'

The Executive submitted that the promotion of the '09' service numbers had continued after the consumer had interacted with the 'main service'. An email was sent to all users, which had included the following statements:

“We are happy to confirm your application has been successfully underwritten. We would like to discuss with you the next step with the lenders and how to follow up on your application with them. If you want your decision today, call us NOW!”

The Executive submitted that that the use of the wording “successfully underwritten” in the promotional email implied that there had been progress with the recipient’s application, when, in fact, no such progress had been made.

The Executive submitted that it was clear from the ‘results service’ that no progress had been made at that stage, contradicting the impression given by the email.

The Executive made reference to the following extract of the ‘results service’ script:

“We allow a maximum of 5 working days for them to contact you and if you have not heard from the lenders after 5 working days it would unfortunately mean, that on this occasion you have been unsuccessful.... Now that your details have been passed to the lenders it is important that you deal with them directly as we do not receive any information back from the lenders and so we won’t be able to help you any further.”

The Executive submitted that, given the true nature of the ‘results service’ and the fact that it was optional, the email promotion of the ‘results service’ had employed wording that was likely to have mislead consumers who had initially chosen not to call the optional service, to opt to make such a call in the belief that there had been a significant change in the status of their application and that a call would assist the overall application process.

Ground 3 **“Decision in an hour”**

The Executive submitted that the Service Provider’s main role was as a loan finance broker on behalf of consumers who called its ‘09’ number. Any expression of interest in a loan was then passed on to various lenders by Cash Finance Direct Limited.

The Executive submitted that that the written promotions for the service often used the phrase “*decision in an hour*” and that this was an inducement to call the ‘results service’ to find out if a loan had been agreed within that timescale. The script for the ‘main service’ stated that consumers had the opportunity to call back the ‘09’ number provided to get “a decision” at a set time, which was usually one hour later. In reality, the ‘results service’ only provided the names of the potential lenders to which the expression of interest had been sent. A decision on whether the potential lenders would make a loan would follow a specific application by the user to the potential lender.

The Executive submitted that the ‘results service’ script included reference to specific lenders to whom expressions of interest had been submitted, but did not indicate that any decision had been made on a loan. The script included such wording as:

“good news, it looks like you fit another financial product that we offer to selected customers”

“[LENDER] want to progress your application and details of how to release the funds for a short term loan should have been emailed to you”

“[LENDER] are looking at your enquiry in a lot more detail at the moment and are very interested in the information we have sent them already but have not yet reached a final decision”

The Executive submitted that no decision was reported within the ‘results service’, that early failed claims were not discussed at all and that only those lenders to whom the expressions of interest had been sent were mentioned. As a result, the only circumstances where a decision could be given in an hour, was when all potential lenders had rejected the expression of interest. The Executive submitted that statements in the written promotional material and given by operators during the course of the ‘main service’ had misled, or were likely to have misled, consumers into calling the ‘results service’.

2. The Service Provider responded to the Executive’s grounds in relation to the alleged breach as follows:

Ground 1

“Pre-processed your application”

The Service Provider stated that the pre-processed element referred to how they had established that the potential customer was interested in a loan and how they had established that the person had not previously tried to access such a facility by the use of its ‘de-duplication’ process.

It stated that the wording accompanying the pre-processed statement had been “we could help with your loan” or “we feel confident that we can help you” (post promotion) and “we believe we could help you” (email promotion). It stated that it was of the belief that it had just cause to feel sure or feel confident at its ability to secure an offer of finance for its customers.

It stated that, from the 130,000 users of its service this year alone, it had not received a single complaint relating to this wording, reinforcing that none of the clients had misunderstood or felt that this wording was in any way misleading.

It made reference to the first consumer complaint referenced by the Executive and stated that “he was initially told he was approved of the loan” and that, without being provided with the client’s details to investigate and respond fully to the complaint raised, it could not defend the allegations made by the complainant. It stated that the Executive had been provided with all of the promotional material and scripts used within the service, none of which stated that it had approved anyone for a loan. It made reference to the second consumer complaint referenced by the Executive and stated that he had been approached via mail telling him that he had been “pre-approved for a credit card”.

It stated that it had never used this message as a promotion in any mailing campaign and the client had further confirmed that “Over the next 10 days he was contacted by five different companies offering him loans that he did not want”. It stated that, without being provided with the client’s details, it had been unable to investigate. It continued that the complainant stated that he or she had not received a credit card, despite “the language constantly used, ‘Guaranteed a credit’”. It stated that this language had never been used in any aspect of the

service; indeed, it went out of its way to ensure that the word 'guarantee' was not mentioned to ensure the client was not misled or confused about the service it offered and their expectations accordingly.

It stated that the wording "pre-processed your application" had now been removed from all marketing material with immediate effect and replaced with "we want to further your application" to ensure that the Executive was completely satisfied with every aspect of the service it operated.

Ground 2

The use of the word 'underwritten' in the email sent after completion of the 'main service'

The Service Provider stated that the 'results service' enabled its clients to learn which lenders matched their circumstances and criteria and, subsequently, which lenders their details would be sent to. It stated that some clients wanted an instant decision and some were happy to wait for the lenders to contact them and, as such, had no requirement to call the 'results service'.

The Service Provider stated that the email and text message service had only been used over recent months in response to requests from callers to its 'main service' and one of the questions asked was "When will I know if I have been sent to a lender?", to which it responded "in around an hour". It stated that the wording was, therefore, intended as an aid to its customer services department, not as a promotional tool that misled, or was likely to have misled, consumers.

It stated that it discouraged clients from calling back any earlier to ensure that its system was able to select the lenders most suited to the clients based on their criteria and circumstances (i.e. to underwrite) and that, should the client choose to call the 'results service', it had a result to give them over the telephone.

It stated that, without extensive and lengthy development work, it was unable to identify those individual clients who wished to be advised immediately by email that their details had been sent to the panel of lenders, hence the email was sent in a blanket format to all those who had used the 'main service'.

It stated that the introduction of the combined email and text messages had resulted in an increase of callers of just over one percent to the 'results service'; however, its customer services department had seen a reduction in the number of callers as a result of the broadcast asking if they are able to call back for their decision. It stated that it felt that this was of benefit to the customer to be able to confirm that action had taken place as a result of their 'main service' call.

It stated that the Executive was concerned that it had introduced a new aspect to the script and to the written material associated with the application, i.e. the concept of an underwriter, as the email and text message contained the phrase "*We have now underwritten your loan enquiry*".

It stated that it was of the opinion that 'underwritten' was a term used with high frequency within the finance industry and its customers understood the word and its meaning. It stated that it was a singular word which summarised perfectly the following actions it had taken as part of the client's enquiry:

"We have used the information and personal details captured as a result of your initial enquiry and compared them to the most current lenders criteria we hold within our database, we have matched you accordingly with those lenders on the

panel most likely to result in an offer of finance being made to you and have sent your details to them electronically for their perusal”

It stated that, if it were to use the wording above, the call would take an additional twenty seconds, whereas the word ‘underwriting’ takes less than one.

The Service Provider made reference to a Wikipedia definition of the term ‘underwritten loan’ and stated that, although it referred to a bank, the principal remained the same as a bank was also a lender.

“Bank underwriting

In banking, underwriting is the detailed credit analysis preceding the granting of a loan, based on credit information furnished by the borrower, such as employment history, salary and financial statements.....”

It stated that, since the commencement of the service some ten years ago, it had always had an underwriting process, as it had multiple lenders on its panel and it therefore had multiple criteria bespoke to each individual lender. It stated that the criteria required careful consideration and matching, prior to each applicant being forwarded to the most suitable lender. It stated that it was imperative that the lenders only received clients that matched the criteria required.

It stated that the term ‘underwriting’ or ‘underwritten’ had now been replaced with the term ‘processed’ to ensure that the Executive was completely satisfied with every aspect of the service it operated.

Ground 3

“Decision in an hour”

The Service Provider stated that, not only could it provide a decision within the hour as to which lender it had selected from its panel of lenders, it also had the facility for the lender to actually deposit funds directly into the client’s account within approximately 15 minutes of them making an application to its service.

It stated that its panel was made up of high-speed, internet-based online lenders that could offer a decision within minutes. It stated that it used whichever service was best for its clients, sometimes speed was required over and above a more detailed and personal service offered by the more traditional lenders.

It stated that to err on the side of caution, it had chosen to promote the message “within the hour”, rather than “within 15 minutes”, as it wished to build in a ‘failsafe’ to ensure that should its email server fail, or perhaps the lender received a large batch of data that required processing and was unable to deliver the 15-minute promise, then the additional time would allow both the lender or Cash Finance Direct Limited to employ their back-up services to ensure the quality of service.

It stated that the term “decision in an hour” would be removed from all marketing or promotional material to ensure that the Executive was completely satisfied with every aspect of the service it operated.

3. The Tribunal considered the evidence and concluded that:

Ground 1 The use of the expression ‘pre-processed’ in relation to the consumer’s application was likely to have misled consumers by giving them cause to believe that their criteria and circumstances had been subject to a preliminary assessment, which would give them some confidence that they would be offered a loan, when, in fact, no such pre-assessment had taken place.

Ground 2 The Tribunal found that the use of the wording ‘successfully underwritten’, read in context, was likely to have misled consumers into making a further premium rate call to the ‘results service’ by giving them an expectation that their expression of interest in obtaining a loan had advanced beyond the stage that it had actually reached, namely that it had been forwarded to potential lenders.

Ground 3 The Tribunal found that the use of the expression ‘decision in an hour’ was likely to have misled consumers into thinking that, on calling the ‘results service’, they were going to get a decision on their loan in an hour, when, in fact, they would only be informed of the lenders to which their expression of interest had been sent.

The Tribunal upheld a breach of paragraph 5.4.1a of the Code on all grounds.

Decision: UPHELD on all grounds

**ALLEGED BREACH THREE
FAIRNESS (UNREASONABLE DELAY) (Paragraph 5.4.2)**

“Services must not be unreasonably prolonged or delayed.”

1. The Executive made reference to its previous submissions in relation to Ground 3 of its alleged breach of paragraph 5.4.1a of the Code and the promotional hook advertising a “decision in an hour”. It also relied on the nature of the ‘results service’ and submitted that aspects of the ‘results service’ were unreasonably prolonged. It submitted that there were two key aspects of the ‘results service’ that appeared to unreasonably prolong the service as follows:

- (1) The cross-promotion of other products;
- (2) The further questions relating to the consumer’s personal circumstances.

It submitted that both aspects were unnecessary to a true ‘results service’ and resulted in a longer and more expensive call to the ‘09’ number.

The Executive also submitted that the cross-promotion script for the ‘results service’ indicated that an offer of a gold and jewellery service had been included within the call. It submitted that, even if this offer had not been taken up by the caller, the explanation of the offer extended the length of the call.

The Executive also made reference to the credit reference questions in the ‘results service’ script, and quoted the following phrases: *“There is also another company interested in your details but I’m not sure if you match their criteria at the moment”* and *“Now that your details have been passed to the lenders it is important that you deal with them directly as we do not receive any information back from the lenders and so we won’t be able to help you any further.”* It stated that these types of phrases were not relevant to that particular point in the process.

It submitted that, at the point at which these questions were asked, applications had already been completed and submitted. These questions suggested that, either insufficient information was obtained during the 'main service' call, or that these questions added little, or no, additional value to the consumer's application process. The Executive submitted that this line of questions needlessly extended the length of the call and the cost to the consumer.

It submitted that the service had been unreasonably prolonged in breach of paragraph 5.4.2 of the Code.

2. The Service Provider stated that its service required absolute accuracy to ensure that it offered its callers true value for money. It stated that that it was obligated to ensure that the information provided by the client was captured and verified, so they were afforded the best possible opportunity of obtaining an offer of finance from the lenders within its panel. It stated that operators confirmed certain key fields within the data they captured and that was proven to have an influence over the eventual outcome. This could also apply to a question that the client had answered, but where there is uncertainty that the answer provided was correct. It stated that any correction could be made at this point to ensure that the batch file the lender received the following morning contained the correct data. It stated that, if certain fields were incorrect, this would influence the lender choice and impact the success of the client's enquiry.

The Service Provider made reference to the two aspects submitted by the Executive to have unreasonably prolonged the service:

1. Cross-promotion of other products was an easy and accessible way for sellers to take advantage of record gold prices, rather than having complete reliance on the success of a loan enquiry. It stated that it made very little revenue from the service and had merely responded to the request of its clients to improve its product offering. It stated that this question had now been removed from the scripts and would not be asked in any form of premium rate promotion.

2. The further questions relating to the consumer's credit reference that may, or may not, impact the applications that have already been submitted. It stated that whether by genuine naivety, or wilful neglect, some clients may provide information within their answers that is inaccurate. Therefore, the very small number of questions it asked within this part of the script helped to establish and inform the client what they could expect from the lenders.

It stated that these questions had been felt relevant to the process as the outcome would unquestionably be affected as a result of inaccurate information and, if so, the client must be made aware of this.

3. The Tribunal considered the evidence and concluded that calls made to the premium rate 'results service' had been unreasonably prolonged. The operator's script required the operator to engage consumers in a discussion of matters beyond the 'results service' for which the consumers had made the premium rate call. The Tribunal upheld a breach of paragraph 5.4.2 of the Code.

Decision: UPHELD

**ALLEGED BREACH FOUR
PRICING (PROMINENCE) (Paragraph 5.7.2)**

“Written pricing information must be easily legible, prominent, horizontal and presented in a way that does not require close examination.”

1. The Executive submitted that the pricing information had been provided in the terms and conditions at the foot of the web landing page in small print (Appendix A). It submitted that, as the Service Provider had not presented this pricing information in a prominent way and in a way that did not require close examination, it followed that there had been a breach of paragraph 5.7.2 of the Code.
2. The Service Provider stated that the timeframe permitted for its initial response had hastened the preparation of the promotional material it had provided to the Executive, resulting in the poor quality of the screenshot before the Tribunal. It argued that the A4, monochrome, poorly-scanned paper copy before the Tribunal was different to the image viewed on a standard, 17-inch PC monitor in full colour, on which the pricing information was legible and prominent.

It stated that the promotional information had been provided more as an aid to the Executive in understanding the processes involved within the service it offered and the wording used, rather than a true representation of the actual material used itself. It stated that one of the email promotions had not, in fact, ever been used, as it was a mock-up that was provided as an indication of the message and content, rather than a finished piece.

3. The Tribunal considered the evidence and concluded that the written pricing information contained on the web landing page had not been prominent and had required close examination. The Tribunal upheld a breach of paragraph 5.7.2 of the Code.

Decision: UPHELD

SANCTIONS

The Tribunal's initial assessment was that, overall, the breaches taken together were **significant**.

In determining the sanctions appropriate for the case, the Tribunal took into account the following aggravating factors:

- The Service Provider's behaviour was deliberate in its prolongation of the 'results service' call.
- The cost paid by individual consumers was high. One consumer was charged over £38.

In mitigation, the Tribunal noted the following factors:

- The Service Provider obtained prior permission for this service in 1999, with specific aspects of this service being considered by the Executive at various times since. The Tribunal noted that the Executive had not raised these breaches with the Service Provider prior to this investigation.
- The Service Provider co-operated fully and proactively with the Executive.
- The Service Provider offered refunds beyond that required in its Prior Permission Certificate.

The revenue in relation to this service fell within the low range of Band 1 (£500,000+).

Having taken into account the aggravating factors and the mitigating factors, the Tribunal concluded that the seriousness of the case should be regarded overall as **significant**.

Having regard to all the circumstances of the case, including the revenue of the service, the Tribunal decided to impose the following sanctions:

- A Formal Reprimand;
- A fine of £50,000;
- The Tribunal commented that it expected claims for refunds to continue to be paid by the Service Provider for the full amount spent by complainants, except where there is good cause to believe that such claims are not valid.

Appendix A – Screenshots of the landing webpage

UNSECURED LOAN UP TO £15,000

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GET A DECISION WITHIN ONE HOUR AND SPEAK DIRECTLY TO OUR ADVISORS

We have over 10 years experience and are on the UK's leading finance brokers, helping many thousands get a loan. **WE COULD HELP YOU** as we have a unique mix of lenders and finance solutions you won't see advertised.

NO HIDDEN FEES OR CHARGES

WHY SHOULD I CALL?

By speaking direct to one of our Advisors, they can run through a full application that allows us to fully understand your circumstances and offer you the very best solution.

We can give you a **DECISION WITHIN ONE HOUR.**

WHAT WE GIVE YOU:

As soon as you have called to complete your application, **we can give you a DECISION IN ONE HOUR.**

WANT A PAYDAY ADVANCE AS WELL?

We have the UK's largest Payday lending panel and from the same application, could find you a **same day payout of up to £750.**

Get a decision in one call for both an Unsecured loan and a Payday advance.

Call 0906 400 1990* Lines open 8am to 9pm Monday to Friday and Saturday 9am to 5pm

* Calls are charged at £1.50 per minute from a standard BT line, calls from other networks and mobiles may be higher. All calls will not exceed 15 minutes in duration. Must be aged 16 years or over. All loans are subject to status. Written details available on request. Horizon Finance is a trading name of Cash Finance Direct Limited. Registered office: Horizon Finance, 7 St Petersgate, Stockport, Cheshire, SK1 1EB. Company registration number 3173046. Consumer Credit license 503842. Customer Service Number 08432 160160. Refunds available on request.