

# THE CODE COMPLIANCE PANEL OF PHONEPAYPLUS TRIBUNAL DECISION

Thursday, 17 February 2011 TRIBUNAL SITTING No. 71/ CASE 3  
CASE REFERENCE: 846296

Service provider & area:	AT Telecom Ltd, Stockport, Cheshire
Type of service:	Recorded directory information
Service title:	Customer Service Contact Numbers
Service number:	09042562181, 09042562183, 09042562185, 09042562189, 09042562191, 09042562193, 09042562198, 09042562272 and all other PRNs on
which this service is available	
Cost:	£1.50 per call
Network operator:	TTNC Limited
Number of complainants:	5

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

### BACKGROUND

The Executive received five complaints in relation to the 'Customer Service Contact Numbers' service. The service was a recorded directory information service that operated on various premium rate numbers.

Consumers who searched for an organisation's contact number using the Google search engine would be presented with the Service Provider's website (contact.uk.com) at the top of the search results. Consumers that clicked onto the website link were presented with 'Contact Directory' search results and a premium rate number directly below. Complainants stated that the advertising of the premium rate service was misleading.

The Executive's concern was centred on the misleading nature of the service and its pricing information.

### Monitoring

The Executive monitored the service in December 2010 and January 2011. On calling the premium rate number the Executive heard a recorded message that stated: "Hello and welcome to contact information service. The customer service number you require is....". The customer service number of the relevant organisation was then repeated twice before the service automatically disconnected.

### The Investigation

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

Following a preliminary investigation, the Executive issued a breach letter to the Service Provider, dated 28 January 2011. The Executive received a response from the Service Provider on 4 February 2011.

The Tribunal made a decision on the breaches raised by the Executive on 17 February 2011.

## SUBMISSIONS AND CONCLUSIONS

### ALLEGED BREACH ONE MISLEADING (FAIRNESS) (Paragraph 5.4.1a)

*“Services and promotional material must not: a Mislead, or be likely to mislead in any way,”*

1. The Executive made reference to its monitoring exercise and submitted that when searching for a variety of organisations’ customer service details through the Google search engine, the Service Provider’s website appeared towards the top of the search results in the sponsored links section.

The Executive made reference to various examples of headers found above the link to the Service Provider’s website in relation to different searches that stated as follows:

- O2 - The header stated ‘Call Customer Services’
- British Airways - The header stated ‘Call Customer Services’
- Matalan - The header stated ‘Customer Service Helpline’
- DVLA - The header stated ‘Driving Licence Helpline’
- Sky TV - The header stated ‘Contact Customer Services’
- Aldi – The header stated ‘Contact Customer Services’
- Tesco – The header stated ‘Call Customer Services’
- Amazon – The header stated ‘Customer Service Helpline’

The Executive submitted that the above descriptions of the premium rate service were likely to have misled consumers who were searching for an organisation’s customer service number into thinking that by clicking on the Service Provider’s website link they would be presented with the customer service details of the relevant organisation.

It submitted that on clicking the website link, consumers were directed to the Service Provider’s website. The website prominently stated ‘Contact Directory’, below which it stated ‘Your Search Results:’, followed by the relevant organisation’s name and the phrase ‘Customer Services’, or ‘Helpline’, which was also stated prominently (Appendix A).

The Executive submitted that this text would reinforce a consumer’s belief that the premium rate number displayed on this website was the actual customer service number for the organisation as opposed to a recorded information service that merely provided the required organisation’s customer service number. The Executive made reference to some consumer complaints that supported its view such as the following:

*“believing it was for British Airways he [the consumer] did a google search for British Airways telephone number and the first thing that came up was a goggle sponsored page which provided the PRN 09042562183 when the consumer called the number it was simply a recorded message advising of the correct British Airways number.*

*Consumer dialled the PRN today and was charged £1.50. Consumer believes these types of service are a scam”*

*“I was looking for a phone number for Sky TV. The first website I clicked was <http://contact.uk.com/sky.html>. The website displayed Sky TV Customer Services and a premium rate number which I almost dialled. This is clearly taking advantage of people who are looking for someone else.”*

Furthermore, it submitted that the promotional material had not clearly stated that the customer service number provided on the premium rate line could be freely obtained and was in the public domain. It submitted that this would increase the chance of a consumer calling the service rather than finding the customer service number without charge.

1. The Service Provider stated that it had strived to gain approval from PhonepayPlus regarding its promotional material, and had been in constant contact with PhonepayPlus from the start of its business in January 2010.

It stated that in relation to the Sky TV and DVLA pages, it fully accepted that these pages had detracted from the compliance guideline given by PhonepayPlus in August 2010. However, these detractions had been due to a technical error and were in no way a deliberate attempt to bring in any “unapproved” practices. Furthermore, it stated that these pages were classed as “subdomain” pages and accounted for less than 2% of all of its service web pages.

It stated that other than these two web pages, it believed that it had not “significantly” detracted from the “gist” of the compliance direction given in August 2010 in relation to the other web pages (approx 98%).

It stated that it had provided an alternative service to people looking for customer service numbers and that these numbers were often difficult to find even though many (not all) were available for free.

It stated that the header description “Call Customer Services” had been approved by PhonepayPlus in August 2010.

It also stated that it had statistical data that indicated that many people who read the page had not necessarily used the service. It stated that this data suggested that the information on the webpage was being read and the service was not necessarily for everyone. Furthermore, the ratio of complaints to callers suggested that the majority of people using the service had not been dissatisfied.

2. The Tribunal considered the evidence and concluded that the service was a form of directory enquiry service as it incorporated several of the characteristics of this category of service. The Tribunal found that in light of a combination of the appearance of the service and the use of the words ‘call’ and ‘contact’ in the Google ads banner/web link (Appendix B), consumers were likely to have been misled, as on clicking the web link consumers were likely to think that the number that appeared on the webpage was the number which they were searching for and not the number for the premium rate service.

The Tribunal acknowledged that consumers did eventually get the number they had been looking for. However, the web link was not sufficiently clear that obtaining the number would incur a charge.

The Tribunal upheld a breach of paragraph 5.4.1a of the Code.

**Decision: UPHELD**

**ALLEGED BREACH TWO  
PRICING INFORMATION (COST) (Paragraph 5.7.2)**

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

1. The Executive made reference to the pricing information contained in the promotional material on the website, which stated as follows:

*“This service is charged at a fixed cost of £1.50 per call plus network charges (if applicable).”*

It made reference to the PhonepayPlus Help Note on pricing information and submitted that the pricing information (within the terms and conditions beneath the premium rate number) had been in a significantly smaller font than the main call to action within the promotion, and as such had not been prominent to a consumer viewing the promotional material.

It made specific reference to the website promotions for the ‘DVLA Helpline’ (Appendix B) and ‘Sky TV – Customer Services’ where the cost of making the call had been placed in the middle of the terms and conditions, contrary to the guidance given in the PhonepayPlus Help Note on pricing information.

The Executive also submitted that the Service Provider had been advised in correspondence dated 19 August 2010 that there were issues with the prominence of the pricing information in its promotional material.

2. The Service Provider made reference to the Sky TV and DVLA web pages and stated that it fully accepted that these web pages had detracted from the compliance guideline given by PhonepayPlus in August 2010. It stated that these detractions had been due to a technical error and had not been a deliberate attempt to bring in any “unapproved” practices.

It stated that other than the Sky and DVLA web pages, it had not “significantly” detracted from the “gist” of the compliance direction given by PhonepayPlus in August 2010.

The Service Provider stated that the wording of the pricing information as referenced by the Executive had been approved in August 2010 and all of its standard web pages reflected this style of pricing, and that this information had appeared directly below the premium rate number.

3. The Tribunal considered the evidence and concluded that in relation to the DVLA and Sky contact number pages, pricing information on the service’s webpage was not sufficiently prominent.

## Decision: UPHELD

### SANCTIONS

The Tribunal took the view that failure to comply with a sanction imposed by PhonepayPlus should be regarded overall as **significant**.

The Tribunal considered that there were no aggravating factors that were relevant to this case.

The Tribunal considered various potential mitigating factors and concluded that none were applicable to this case. However, in relation to the mitigation arguments put forward by the Service Provider, the Tribunal noted that:

- The Service Provider took advice in January 2010 (prior to the investigation) and had not implemented the advice correctly, subsequently departing from the advice provided in an informal resolution process, so this could not amount to mitigation; and.
- Two of the pages were not updated due to a technical error.

The Tribunal commented that it was pleased that the Service Provider had expressed a wish to co-operate with the Executive and it hoped that it would follow the Executive's advice in the future.

The revenue in relation to this service was in the upper range of Band 2 (£250,000-£500,000).

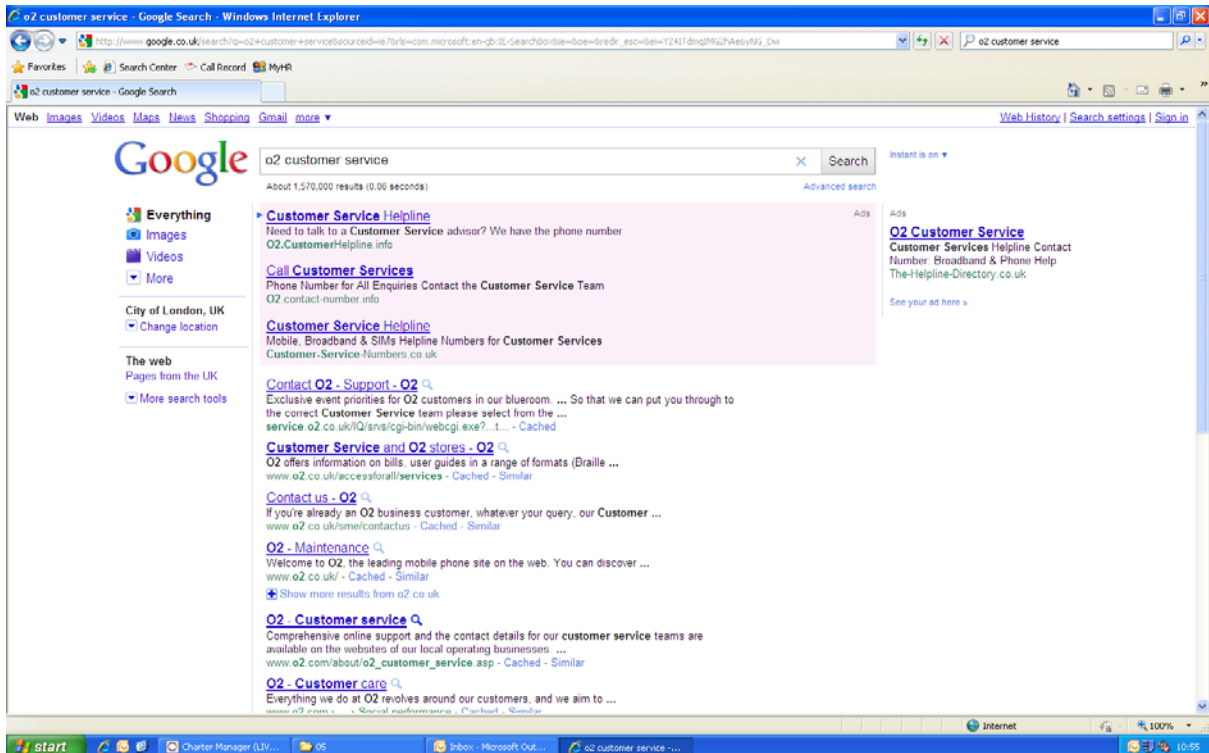
Having taken everything into account the Tribunal concluded that the seriousness of the case should be regarded overall as **significant**.

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 ordered that the Service Provider remedy the breach by seeking and implementing compliance advice to the satisfaction of the Executive.
- The Tribunal ordered refunds 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

### Screen shot of the Google Ad page and the O2 search page




O2 Customer Services - Windows Internet Explorer

http://contact-number.info/o2customer\_serv.html

o2 customer service

O2 Customer Services



## Contact Directory

Company:  Location:

e.g. Lloyds TSB e.g. Postcode/Town/City

Your Search Results:

### O<sub>2</sub> Customer Services

#### 0904 2562189

This service is charged at a fixed cost of £1.50 per call plus network charges (if applicable). This is a helpline information service. Our service provides you with the telephone number you require by reading out a recorded message once the number is dialled. Please have a pen & paper to hand. You will not be connected directly to an operator. Please read the service description before dialling. This directory service has no affiliation of any kind with O2. If you would like to visit the official O2 website, please go to [www.o2.co.uk](http://www.o2.co.uk).

Contact Information is a convenient Directory service for those people who do not have the time or the inclination to search for telephone numbers. Contact information service is also useful for people who would otherwise find it difficult to navigate the internet. If you cannot easily find the Helpline number you need, but you need to locate a number quickly, we can assist you. We constantly update our information to keep up with the ever changing customer service numbers. There is a fixed charge of £1.50 per call plus network charges (if applicable) for using our information service.

If you have any questions regarding this Helpline Information Service, please see the [Contact Us](#) page below

[Home](#) [About Us](#) [Privacy Policy](#) [Terms & Conditions](#) [Contact Us](#)

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Done

start | Charter Manager (LIV... | OS | Inbo... Microsoft Out... | O2 Customer Service... | Document... Microsoft... | Internet | 100% | 10:56

## Appendix B

### Screenshot of Google Ad page and DVLA search result

The screenshot shows a Google search for "DVLA customer service" in a Windows Internet Explorer browser. The search results page displays several links and advertisements. The main search results include:

- Driver Licensing Helpline**: Licensing, SORN or Car Tax enquiry? We have the phone number DVLA.CustomerHelpline.info
- Driving Licence Helpline**: Provisional & Full Licence queries, Lost, Renewals and New - by Phone Customer-Service-Numbers.co.uk
- Licence Helpline Number**: Driving Licence General Enquiries Contact the Customer Help Team DVLA contact-number.info
- Driver and Vehicle Licensing Agency (DVLA) contacts - Directgov**: DVLA customer views, Download 'Standards of Service' (RNF150) (PDF, 582K) - Download 'Customer service guide' (NIS101) (PDF, 209K) ...
- DVLA - Driver Licensing Enquiries - Directgov - Directories**: Drivers' Customer Services (DCS) Correspondence Team DVLA SAG 7JL, Phone ...
- Customer service guide for drivers with medical conditions**: File Format: PDF/Adobe Acrobat - Quick View
- DVLA - Improved Customer Service**: 28 Aug 2008 ... "These new customer service improvements show that DVLA listens and responds to the motoring public's needs. It makes sense to be able to ..."
- Contact us - Department for Transport (DfT) UK**: DVLA logo, Driver and Vehicle Licensing Agency, Skip Navigation ...

Advertisements on the right side include:

- DVLA Contact Details**: Renew/Replace Your Driving Licence Over The Phone. Call Today! The-Helpline-Directory.co.uk/DVLA
- DVLA**: Speak To Us 8am - 10pm 7 Days. With Free Mag And Price Promise! Est 82. RegTransfers.co.uk/Number\_Plates
- What the customer values**: Join the dialogue informed by Drucker & leading experts of today. Apps.DruckerInstitute.com
- WOW! What Great Service**: Did you receive great service? Catching people doing things right! www.theshowwards.co.uk
- DVLA Customer Service**: DVLA Customer Service Online! www.gumtree.com
- Customers Service**: Search for Customers Service Find Customers Service Ask.com
- Good Customer Service**: Using the Voice of the Customer to Provide Excellent Customer Service www.CustomerManagementIQ.com
- Customer Care**: DVLA Customer Care

The screenshot shows the DVLA Helpline website in a Windows Internet Explorer browser. The page features a search bar with fields for "Company" and "Location", and a "Search" button. Below the search bar, the text reads "Contact Directory" and "Your Search Results: DVLA Helpline 0904 2562185". There is also a detailed description of the helpline service and contact information.

**Contact Directory**

Your Search Results:

**DVLA Helpline**

**0904 2562185**

This is a helpline information service. Our service provides you with the telephone number you require by reading out a recorded message once the number is dialled. Please have a pen & paper to hand. You will not be connected directly to an operator. This service is charged at a fixed cost of £1.50 per call plus network charges (if applicable). Please read the service description before dialling. This directory service has no affiliation of any kind with DVLA. If you would like to visit the official DVLA website, please go to www.dft.gov.uk

Contact Information is a convenient Directory service for those people who do not have the time or the inclination to search for telephone numbers. Contact information service is also useful for people who would otherwise find it difficult to navigate the internet if you cannot easily find the Helpline number you need, but you need to locate a number quickly, we can assist you. We constantly update our information to keep up with the ever changing customer service numbers. There is a fixed charge of £1.50 per call plus network charges (if applicable) for using our information service.

If you have any questions regarding this Helpline Information Service, please see the Contact Us page below

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