



Tribunal meeting number 169 / Case 2

Case reference: 63304  
Level 2 provider: Cash Finance Direct (Holdings) Limited (UK)  
Type of service: Fixed line brokerage service  
Level 1 provider: N/A  
Network operator: Vodafone Group Plc

### THIS CASE WAS BROUGHT AGAINST THE LEVEL 2 PROVIDER UNDER PARAGRAPH 4.4 OF THE CODE

#### BACKGROUND

Between 22 December 2013 and 6 May 2015, PhonepayPlus received 119 complaints concerning a fixed line loan brokerage service (the “**Service**”) operated by the Level 2 provider, Cash Finance Direct (Holdings) Limited.

The Executive understood that the Service was a fixed line loan brokerage service whereby consumers called a premium rate number (“**PRN**”) to find out if they were eligible for a loan. The Service was promoted by SMS marketing, third party lead generation and online re-directs. The Service was registered with PhonepayPlus on 31 July 2013.

Consumers who called the first PRN were asked to provide personal details. These would then be passed on to potential lenders. The call was charged at £1.53 per minute and lasted no longer than 15 minutes. Towards the end of the call, consumers were given another PRN to contact if they wished to be notified of the potential lenders they had been initially matched with.

Complainants had stated that they felt that calls were lengthy and drawn out, that they received misleading promotions and/or that when they applied for refunds they were not received.

#### The investigation

The Executive conducted this matter as a Track 2 investigation in accordance with paragraph 4.4 of the PhonepayPlus Code of Practice (12<sup>th</sup> Edition) (the “**Code**”).

The Executive sent a breach letter to the Level 2 provider on 22 May 2015. Within the breach letter the Executive raised the following alleged breaches of the Code:

- Rule 2.3.2 – Misleading;
- Rule 2.3.4 – Undue delay;
- Rule 2.6.4 – Provision of refunds; and
- Rule 2.3.1 – Fair and equitable treatment.

The Level 2 provider responded, on 29 May 2015 via its liquidator (the “**Liquidator**”), which was acting on behalf of the Level 2 provider.

On 25 June 2015, the Tribunal considered correspondence between the Executive, the Liquidator and a director of the Level 2 provider and his solicitor, for the period from 22 May 2015 to 23 June 2015, which included an application by the director, through his solicitors, for an adjournment of the hearing to enable him to make representations and/or attend.



The Tribunal considered as a preliminary issue whether to adjourn the hearing on the director's application.

The Tribunal determined that, notwithstanding the fact that the "relevant party" (for the purposes of Code paragraphs 4.4.1, 4.4.2, 4.4.3, 4.4.4 and 4.4.5) is the company in liquidation, acting through its liquidator, the Tribunal considered that it was in the interests of justice to grant an adjournment for the following reasons:

- a) the alleged breaches occurred at the time when the individual making an application for an adjournment was a director of the company;
- b) there was a risk, albeit small, on the facts of this case, that the director may not have been afforded sufficient opportunity to respond fully to the allegations of breaches in writing; and
- c) the outcome of the Track 2 hearing may affect the director's ability to apply for and hold a licence in future.

The Tribunal noted that:

- a) any representations the director may make would be without prejudice to the rights of the liquidator and/or the Level 2 provider's creditors; and
- b) the adjournment may have costs implications upon the Executive and/or the Level 2 provider, but the Tribunal considered that this was outweighed by the interests of justice in allowing the director to make representations upon the alleged breaches, as summarised in the email from the director's solicitor to the Executive dated 23 June 2015 timed 12.18pm.

The Tribunal adjourned the hearing of the matter on 25 June 2015.