

## Tribunal meeting number 278

Case reference: 183017  
Level 2 provider: Peter Jones t/a Webserve CMS  
Type of service: Information, Connection and/or Signposting Service (ICSS)  
Network operator: Telecoms World Limited

This case was brought against the Level 2 provider under Paragraph 4.5 of the 14<sup>th</sup> Edition of the Code of Practice (“the **Code**”).

### Background

The case concerned an Information, Connection and/or Signposting Service (“**ICSS**”) which operated on the number range 0843 455 number range (“**the Service**”).

The Level 2 provider for the Service was a sole trader, Peter Jones who traded as Webserve CMS (“**the Level 2 provider**”). The Network operator was Telecoms World Limited.

The Service was first registered on the Executive’s registration scheme on 31 January 2019 and the Level 2 provider became responsible for the Service on 2 May 2019. The Level 2 provider registered five trading names with the Executive: “Contact Phone Numbers UK”, “Quick Number”, “Contact Universal Credit”, “Gov Benefits” and “Correct Contacts”. On 30 December 2020, the provider updated “Correct Contacts” to “Runcorn Bridge Tolls”.

Initially, the Service was provided by the registered company Webserve CMS Limited (Companies House registration number 07608033). The registered director of the company was Peter Jones. However, on 2 May 2019, acting as a sole trader Peter Jones took on the obligations of Webserve CMS Limited and the company dissolved from the company registry on 28 May 2019. Later, on 29 January 2020, the Executive’s Registration Scheme was updated to state the Service was provided by the Level 2 provider. The Executive notes the bank account, phone numbers and address for the Level 2 provider remained the same as Webserve CMS Limited.

### The investigation

During the course of the investigation, the Level 2 provider confirmed that the name of the Service was “Telephone directory service, Blogs”.

The Service met the definition of a Type 1 ICSS service. The ICSS Guidance defines a Type 1 ICSS service as:

*“‘Call connection’ services. Type 1 services offer connection to a small number of organisations, rather than the full range that a national Directory Enquiry (DQ) service provides. In some cases, Type 1 services may, in addition to connection, offer the number the consumer is seeking.”*

The service was currently live and promoting as of the date that the Tribunal considered the case. The Level 2 provider stated that the Service cost 7 pence per minute plus phone company's access charges.

The Network Operator and Level 2 provider supplied a list of 175 premium rate numbers which were used by the Service. Out of the 175 premium rate numbers supplied, 22 connected to helplines for government benefit organisations. These included:

- Universal Credit
- Budgeting Loans
- Jobseekers' Allowance
- Child Maintenance Service
- Guardian's Allowance
- Disabled Students' Allowance
- Personal Independence Payment
- Employment and Support Allowance

The Service also provided connections to well-known organisations in banking, finance, gambling, delivery, holiday, shopping, utilities and more.

The Level 2 confirmed that the Service was promoted on the following domains:

- Contactphonenumberuk.com
- Govbenefits.uk
- Contactuniversalcredit.co.uk
- familyconcerns.net
- telephonenumberlists.com

As part of the investigation, the Executive monitored the Service on a number of occasions. The “Govbenefits” domain was first monitored on 19 December 2019 using a mobile phone and was again monitored on 20 January 2020.

Telephone calls were made to 0843 455 0031 on 19 December 2019 and on 20 January 2020. Additional calls were made to 0843 455 0092 and 0843 4550035 on 20 January 2020.

On 22 June 2020 the Executive carried out further monitoring of the Service on a mobile telephone. On 23 June 2020 a screenshot was taken of the Service from a desktop PC and further monitoring was undertaken using a mobile telephone of the “Contactuniversalcredit.co.uk” domain. Further monitoring of the Service took place on 17-18 September 2020.

On 20 December 2020 the domains “Contactphonenumberuk.com”, “Govbenefits” and “Contactuniversalcredit.co.uk” were monitored using a desktop PC.

In response to some of the matters raised by the Level 2 provider, the Executive conducted further monitoring of the Service between 23 February and 2 March 2021 on all of the domains listed above. Further telephone calls were made by the Executive to a range of different numbers which connected to different organisations between 24 and 25 February 2021.

The Level 2 provider also supplied a video demonstrating the consumer journey and an audio file of the Interactive Voice Response (“IVR”).

The Executive noted that some changes were made to the Service by the Level 2 provider. These included the addition of a number of disclaimers and an IVR message which stated:

*“Calls to this number will cost 7 pence per minute plus your phone company’s access charge. Webserve will now connect your call.”*

In addition to the monitoring evidence, the Executive also received two complaints in respect of the Service as outlined below:

*“I googled the number for the benefit office, it gave me the 084 number, telling me it was a free call. Even when i called it, it said it was a free call. I have now been charged £109 for call to a free number.” [sic]*

*“Good afternoon, this form may be submitted twice due to my patchy internet - apologies if so. Please be aware that between 28th and 29th April, I made 6 calls to what I believed was the Universal Credit helpline, totalling 226 minutes and I was charged £68.91. This is supposed to be a free service and the calls do go straight through to Universal Credit. I cannot afford these fees and i'd appreciate if you could look into this for me? I have been unable to establish from EE who the company making the charges is, as the calls go straight through to Universal Credit.” [sic]*

### **Apparent breaches of the Code**

The Executive sent a Warning Notice to the Level 2 provider on 8 February 2021 in which the following breaches of the Code were raised:

- Rule 2.3.10 Vulnerability
- Paragraph 3.4.1 Provider Registration
- Paragraph 3.11.3 ICSS 1 Special Conditions
- Paragraph 3.11.3 ICSS 2 Special Conditions
- Paragraph 3.11.3 ICSS 4 Special Conditions
- Paragraph 3.11.3 ICSS 5 Special Conditions

On 15 March 2021, the Tribunal reached a decision in respect of the breaches.

## Submissions and conclusions

### Alleged breach 1

#### Rule 2.3.10 of the Code

*“PRS must not be promoted or provided in such a way that it results in an unfair advantage being taken of any vulnerable group or any vulnerability caused to consumers by their personal circumstances where the risk of such a result could have been identified with reasonable foresight”.*

1. The Executive stated that the Level 2 provider had breached rule 2.3.10 of the Code as it promoted and provided the service in a way that resulted in unfair advantage being taken of financially vulnerable consumers.

The Executive placed reliance on the PSA Guidance on Vulnerability (“**the Guidance on Vulnerability**”) which outlined that consumers could be considered vulnerable as a result of a pre-existing characteristic such as a disability or mental illness and/or could also be considered vulnerable as a result of circumstance. The Guidance on Vulnerability defined the latter as:

*“A temporary or unexpected change in circumstance that might cause distress and result in a situation of vulnerability. These are generally considered significant life events that can affect anyone and are often unexpected. Unlike characteristic-based causes of vulnerability, circumstantial vulnerability tends to be more short or medium term and are temporary in nature”*

Examples of vulnerability by circumstance given by the Guidance on Vulnerability included bereavement, job loss, or loss of income or livelihood.

In addition to defining who could be considered a vulnerable consumer, the Guidance on Vulnerability also provided guidance on the requirement to exercise reasonable foresight, in line with the requirements of rule 2.3.10 of the Code. The Guidance stated that providers were expected to take steps to actively identify and monitor risks and to take appropriate action if there was any risk that a service could take unfair advantage of vulnerable consumers.

The Executive relied on the evidence of the complainants to assert that the Service had been promoted in way that resulted in an unfair advantage being taken of individuals who were vulnerable due to circumstance.

The Executive noted that both complainants had been looking for telephone numbers for government agencies and that both complainants had believed that the Service was free to use. In addition to this, one complainant had explicitly stated that they needed Universal Credit and could not afford the charges for a premium rate number.

The Executive also relied on the monitoring evidence that it had gathered throughout the course of the investigation in order to demonstrate that the Service was promoted in a way that resulted in an unfair advantage being taken of vulnerable consumers.

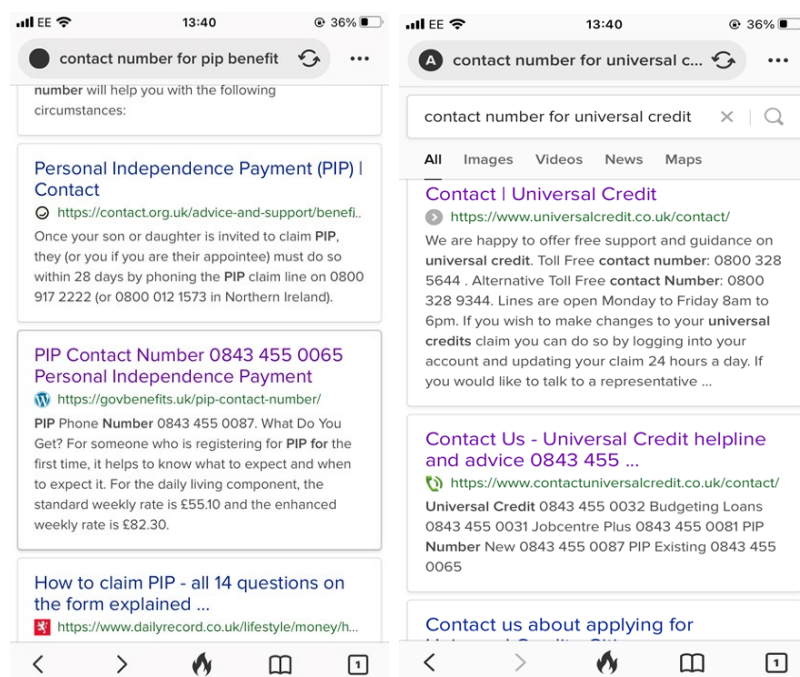
In particular the Executive noted that two of the five domains operated by the Level 2 provider focused on benefits and tax:

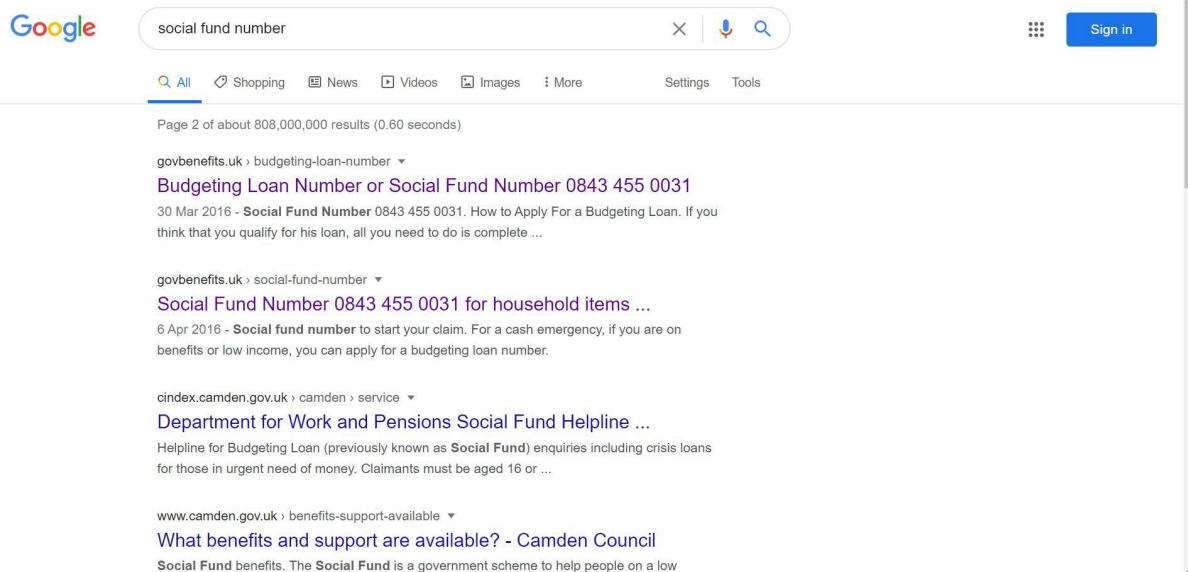
- Contactuniversalcredit.co.uk
- Govbenefits.uk

In addition to this, the Executive noted that the govbenefits.uk domain solely promoted numbers connecting to government benefits and tax helplines.

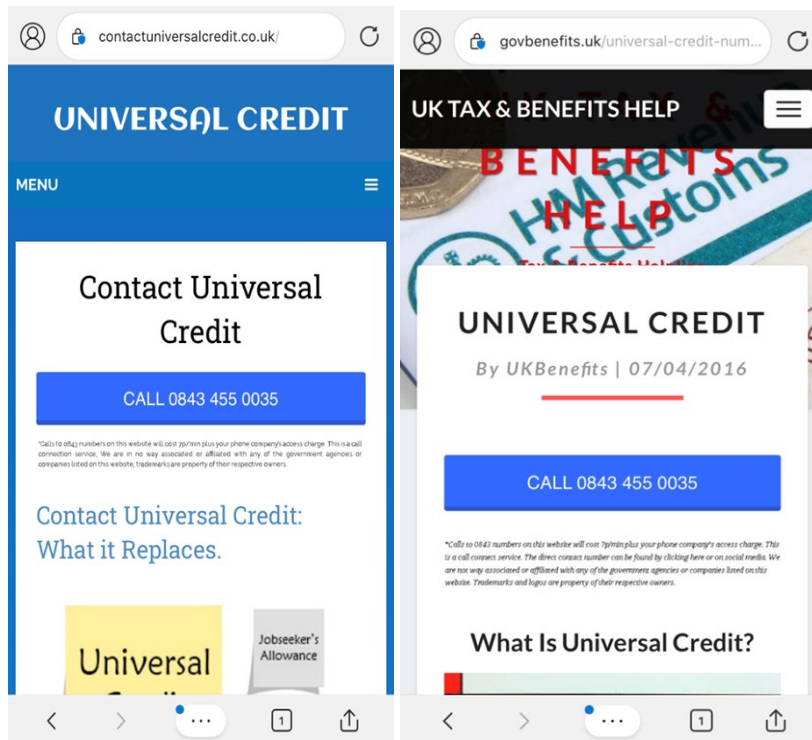
The Executive relied on the monitoring evidence which it had gathered using a variety of search engines between December 2019 and December 2020, a sample of which are set out below:

Search engine results:





The landing page for the Service:



The Executive noted that the promotions did not state that Service was a premium rate call-connection service and that it did not prominently or proximately state the pricing. The Service used HMRC logos and did not state the number was free elsewhere. As a result of this, the Executive asserted that the promotion of the Service resulted in an unfair advantage being taken of financially vulnerable consumers, as consumers had not been given sufficient information regarding the cost of the Service which enabled them to make an informed decision to use the Service.

After being contacted by the Executive, the Provider added disclaimers to some of its websites. The Executives noted that the disclaimers varied depending on the website. With some examples being set out below:

*"Calls to 0843 numbers on this website will cost 7p/min plus phone company's access charge. This is a call connect service. The direct contact number can be found by clicking here or on social media. We are no way associate or affiliate with any of the government agencies or companies listed on this website. Trademarks and logos are property of their respective owners."* [sic]

*"We operate a call routing service to connect you to your chosen company. The 0843 telephone numbers you call are billed at the standard rate of £0.07 pennce per minute from a BT Landline plus your access charge, Mobile will cost more, calling from other systems and mobile phones may be price according to your serviced provided. We are in now way affiliate to, endorsed, or in any way associated with any of the companies or Government bodies we list on this website."* [sic]



The Provider also added the following to the IVR before onward connection to any of the organisations:

*"Calls to this number will cost 7 pence per minute plus your phone company's access charge. Websolve will now connect your call."*

In questioning, the Executive confirmed that the Service was still live. Although the Executive accepted that some improvements had been made to the Service, the Executive submitted that the Service was still being promoted in such a way so as to take unfair advantage of vulnerable consumers. The Executive submitted that the disclaimer was still insufficient to prevent this from happening as it was not easily legible or prominent in relation to the click to call button. The Executive noted that the disclaimer was also below the fold of some of the landing pages captured in the monitoring, meaning that it would not always be seen by consumers.

The Executive stated that the provider did not supply any information on its policy for handling complaints from financially vulnerable consumers who had unknowingly used the Service which they could not afford. When questioned by the Tribunal, the Executive clarified that the Level 2 provider did have a contact page which listed a contact email address for complainants to request refunds but that there was nothing specific in relation to vulnerable consumers.

During the investigation, the Network Operator and Level 2 provider supplied a list of 175 premium rate numbers allocated to the Level 2 provider and where each number connected to. Out of the 175 premium rate numbers supplied, 22 connected to helplines for government benefit organisations. These included:

- Universal Credit
- Budgeting Loans for people on certain benefits
- Jobseekers' Allowance ("JSA")
- Child Maintenance Service previously known as the Child Support Agency (CSA)
- Guardian's Allowance for people bringing up a child whose parents have died
- Disabled Students' Allowance (DSA)
- Personal Independence Payment ("PIP") which can help with extra costs of long-term ill-health or disability
- Employment and Support Allowance ("ESA") for people who have a disability or health condition, or if they are self-isolating because of coronavirus which affects how much they can work.

The Executive noted that although 22 numbers connected to government benefit organisations, these numbers were promoted far more than the non-benefit numbers. The Executive also found a similar disproportionate promotion of benefits helplines on the other domains used to promote the Service.

The Executive accepted that there was some discrepancy as to the overall number of premium rate services that had been allocated to the Level 2 provider. In questioning



the Executive confirmed that the 175 figure came from the Network Operator, however Mr Jones had asserted that he had only 110 numbers. The Executive explained that the discrepancy was likely to be as a result of not all of the allocated numbers being in use by the Level 2 provider at any one time.

The Executive submitted that regardless of the discrepancy, the Level 2 provider intentionally promoted benefits call-connection numbers more than other organisations in order to take unfair advantage of financially vulnerable consumers.

In conclusion, the Executive argued that the provider had breached rule 2.3.10 for the following reasons:

- the consumers using the Service were more likely than not to be vulnerable as a result of circumstance
- the Executive was of the view that the Level 2 provider had reasonable foresight that the users of benefits numbers were vulnerable due to their financial circumstances. This was because users of the Service were seeking information on financial aid, and it therefore followed that the targeted audience of the Service was more likely than not to be financially vulnerable consumers in need of government benefits.
- the disclaimer was insufficient to inform consumers of the cost of the service and to prevent unfair advantage being taken of already financially vulnerable consumers
- the provider disproportionately promoted the 22 benefits contact numbers more in comparison to its 153 other call connection numbers
- the complainant accounts demonstrated that they had been unaware of the costs of the call or the nature of the Service that they had used.

## 2. The Level 2 provider attended to make informal representations to the Tribunal.

In its representations, the Level 2 provider stated that it had only ever been allocated 110 premium rate numbers. The Level 2 provider explained that this was because they paid a monthly fee for each number regardless of whether it was in use or not and that this fee was for 110 and not 175 numbers.

The Level 2 provider stated that it had not been aware that it had been required to do more than it had by adding in the disclaimers and the IVR to make the Service compliant. The Level 2 provider stated that it had been unfamiliar with the requirements of the Code and the Guidance although it had sought assistance from the Network Operator to try to make the Service compliant. The Level 2 provider also emphasised that after it had been first made aware of the issue with its Service on 23 December 2019, it had added in the IVR and the disclaimers and as it did not hear from the Executive for some time after that, it took the view that it had been compliant.

When questioned by the Tribunal, the Level 2 provider confirmed that it had not undertaken any risk assessment in relation to identifying the risks of the Service to consumers who could be considered vulnerable. The Level 2 provider asserted that it

was unaware of how to do this. In addition to this, the Level 2 provider confirmed that some of the domain URLs had been in use for years and that the Service had been promoted in the manner it had to ensure that it appeared high on the list of search results as otherwise it would not have been profitable.

The Level 2 provider emphasised that it had not intended to take unfair advantage of vulnerable consumers deliberately, and that most of the charges they incurred were as a result of the access charges and not the costs of the call. The Level 2 provider accepted that consumers were calling the number only as a result of the promotion but stated that it had never received any complaints regarding the Service. The Level 2 provider asserted that if it had received any complaints it would not be able to ascertain how much consumers had paid to use the Service.

The Level 2 provider stated that the Executive's guidance and processes were not easy to understand and that while it took responsibility, any issues with the Service were as a result of this rather than any deliberate intention to do harm. The Level 2 provider indicated that it was willing to work with the Executive to make the Service compliant and that it had contacted the Compliance Team a week and a half before.

3. The Tribunal carefully considered all of the evidence before it in addition to the written and oral representations made by the Level 2 provider.

The Tribunal first considered whether the consumers that had used the 22 numbers which connected to government benefit organisations could be considered to be vulnerable within the meaning of the Code. The Tribunal considered the Guidance on Vulnerability in conjunction with the complainant evidence. The Tribunal decided that it was more likely than not that consumers contacting services related to benefits such as Universal Credit were vulnerable as a result of circumstance. This was because only consumers who required financial assistance and government benefits were likely to need to contact the government benefit organisations that the Service connected to.

The Tribunal then went on to consider whether the Service was promoted in a manner which resulted in unfair advantage to vulnerable consumers. The Tribunal accepted the Executive's evidence that the 22 numbers which connected to the government benefit organisations were promoted more than the other numbers which connected to other organisations. The Tribunal was not of the view that it was material that there was a discrepancy as to the total number of premium rate numbers allocated to the Level 2 provider as its deliberations in relation to this breach focused on the 22 numbers that connected to the government benefit organisations.

The Tribunal accepted that the Level 2 provider had made some changes to the Service by adding an IVR and a disclaimer, however the Tribunal agreed with the Executive that these were insufficient. The Tribunal noted for example that the disclaimers were sometimes hard to see and were not always proximate to the call-to-action button. The Tribunal therefore decided that there was still insufficient information in relation to the cost and nature of the Service to allow consumers who were vulnerable to make an

informed decision to use the Service. Accordingly, it was more likely than not that the Service had been promoted in a manner that resulted in unfair advantage being taken of vulnerable consumers.

The Tribunal was of the view that the risk of vulnerable consumers being taken unfair advantage of by the Service was identifiable with reasonable foresight. This was due to the nature of the numbers that the Service connected to, such as the number for Universal Credit, and the circumstances of the consumers that were likely to need to speak to those agencies. The Tribunal however noted that the Level 2 provider had not carried out any risk assessment in relation to this issue and had not put in place a complaints process that took account of consumer vulnerability specifically. The Tribunal further noted that the Level 2 provider stated that no-one had ever used the complaints process provided.

For all of the reasons set out above the Tribunal decided that on the balance of probabilities a breach of rule 2.3.10 had occurred and accordingly the breach was found proved.

Decision: UPHELD

## **Alleged breach 2**

### **Paragraph 3.4.1 – Provider registration**

*“Before providing any PRS all Network operators, Level 1 and Level 2 providers must register with the PSA subject only to paragraph 3.4.3 below.”*

1. The Executive asserted that a breach of paragraph 3.4.1 had occurred from May 2019 to January 2020 as the Level 2 provider had failed to keep its registration information accurate and/or up to date and was not therefore registered correctly. The Executive confirmed that this breach had since been rectified.

The Executive relied on monitoring evidence of the Registrations Database, which demonstrated that during this period a dissolved company was stated to be the provider of the Service.

The Executive asserted that the effect of this was that during this period of time, consumers were unable to contact the correct service provider and the Executive was unable to pursue its regulatory duties until it had received confirmation from the Network operator as to the correct legal entity providing the service.

2. The Level 2 provider asserted that it had not realised that there was a problem with its registration. This is because the Level 2 provider had taken on the obligations of the dissolved company that previously ran the Service and had paid the fee, so it had assumed that it did not need to alter its registration. In addition to this the Level 2 provider explained that as it was the Director of the original dissolved company that

initially ran the Service, it would still have received all communications regarding the Service from consumers or the Executive.

3. The Tribunal carefully considered the evidence before it and the oral and written representations of the Level 2 provider. The Tribunal noted that it was in effect accepted by the Level 2 provider that it had not altered the registration details for the Service between May 2019 – January 2020 at the stage that it took over the obligations of the dissolved company. The Tribunal accepted the Level 2 provider's assertions that this had not been done deliberately but nonetheless was of the view that a breach of paragraph 3.1.4 had occurred on the balance of probabilities.

Decision: UPHELD

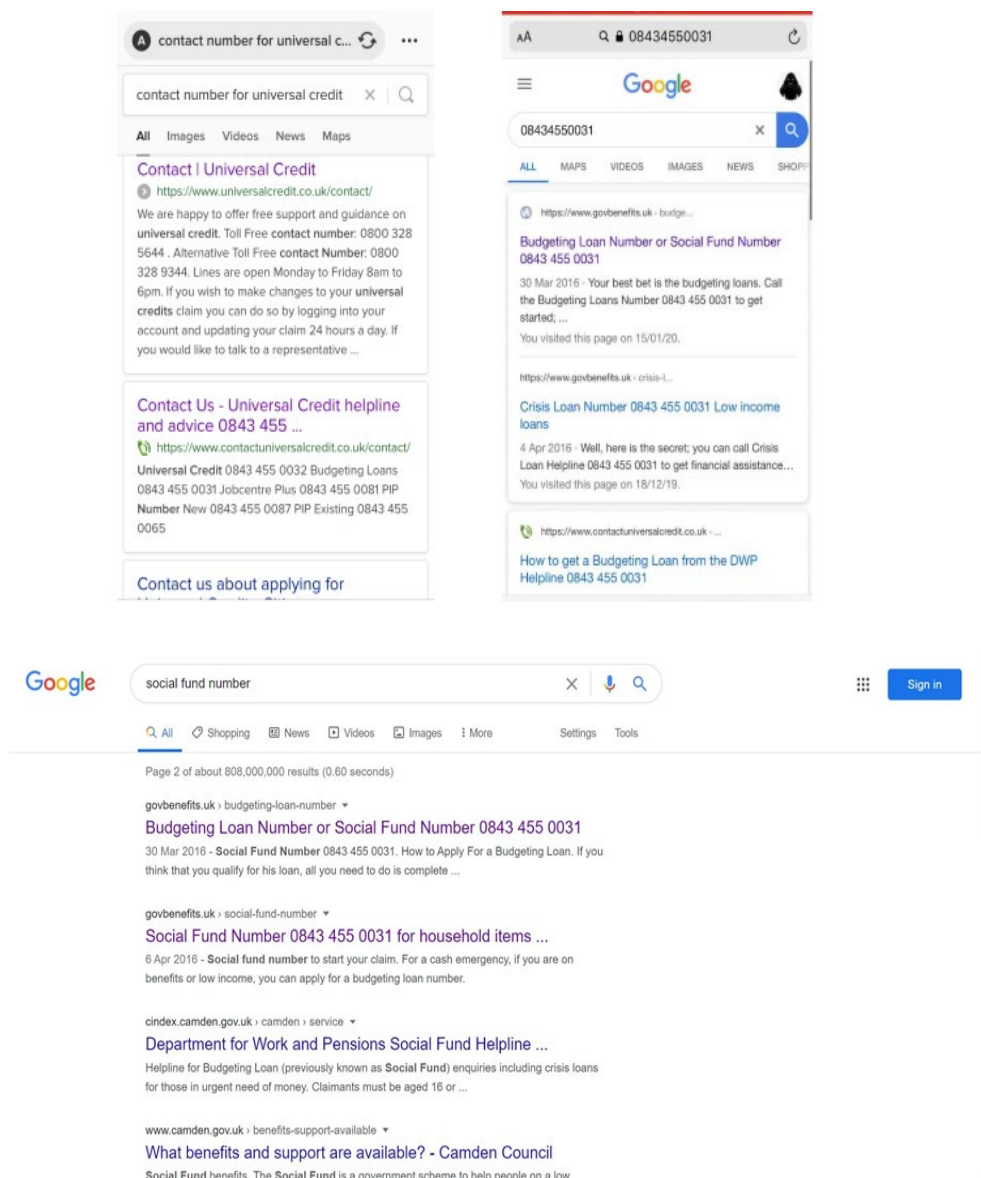
### **Alleged breach 3**

#### Paragraph 3.11.3 Special Conditions

**ICSS 1** *"All search engine advertising and search results, including map-based search results, must contain an accurate description of the true nature of the service and not use any language or marketing techniques which may mislead the consumer into believing that the service is the helpline or information service of the organisation the consumer is seeking. For example, the promotion or search result should say "premium rate connection service" or "Call connection service" for Type 1 ICSS, and "Information assistance service" for Type 2 ICSS. Such information must be prominent on-screen when the consumer views search engine promotions and search engine results. For the avoidance of doubt alternative phrases may be used where they meet the description requirement of this condition."*

1. The Executive asserted that a breach of ICSS 1 has occurred because the search engine results did not state an accurate description of the true nature of the service. The Executive submitted that this misled consumers into believing the Service was not a premium rate call-connection service.

The Executive relied on the monitoring evidence that it had gathered to demonstrate that the search engine results for the Service did not contain an accurate description of the true nature of the Service:



The Executive also relied on the complainant evidence which showed that both complainants had thought that they were contacting the organisation directly.

In conclusion, the Executive submitted that the Level 2 provider had not attempted to make any changes to the Service in this respect and that a breach had therefore occurred.

## 2. The Level 2 provider denied the breach.

The Level 2 provider stated that the sections of text that appeared were due to the search engines and how they displayed information. The Level 2 provider explained that it was a common marketing tactic to use key words to ensure that the Service

appeared prominently in search results but that it had never intended to mislead consumers.

The Level 2 provider submitted that it had thought that the disclaimers which it had added in combination with the IVR messages was sufficient to not mislead consumers, but that it was willing to carry out further work to ensure compliance with the Code as required.

3. The Tribunal gave careful consideration to all of the evidence before it, including the evidence from the Level 2 provider.

The Tribunal was of the view that the evidence submitted by the Executive by way of the monitoring evidence and the complainant evidence was compelling. In particular, the Tribunal noted that the screenshots of the Service used words and phrases to describe the nature of the benefits that some of the organisations were able to provide. It noted that some of the screenshots also showed the agencies' logos which would increase the consumers' confidence that they were using an official service. The Tribunal was of the view that a consumer looking at this information was more likely than not to be misled into believing that they were contacting the organisation itself directly. The Tribunal also accepted the accounts given by the two complainants which both stated that the complainants had not realised that they were calling a connection service as opposed to the organisation itself.

## Business Online Directory Service

Finding you that hard to find company information

SEARCH

[HOME](#) [OUR TELEPHONE NUMBERS](#) [CONTACT US](#) [PRIVACY POLICY](#)

### Child Benefit Helpline

02/06/2017 | By Peter Jones | Filed in: Government Agencies.

#### Child Benefit Helpline 0843 455 0100.



## HM Revenue & Customs

## Child Benefit

Child Benefit Helpline  
Opening Hours.

8.00 am to 8.00 pm,  
Monday to Friday.  
8.00 am to 4.00 pm  
Saturday.  
Closed Sundays,  
Christmas Day,  
Boxing Day, and New  
Year's Day.

All calls to the Child Benefit Helpline Number on 0843 455 0100 will cost 5p per minute from a BT landline, calls from other operators and mobile providers may vary and will be charged at their standard rates. Calls are handled by experienced operators.

To claim Child Benefit you will need to fill in a claim form as fully and accurately as you can. This guide applies to the paper version of the Child Benefit claim form and it can help you answer some of the main questions.

#### DISCLAIMER

We operate a call routing service to connect you to your chosen company.

The 0843 telephone numbers you call are billed at the standard rate of £0.07 pence per minute from a BT Landline plus your access charge, Mobiles will cost more, calling from other systems and mobile phones may be price according to your service provider.

We are in no way affiliated to, endorsed, or in any way associated with any of the companies or Government bodies we list on this website.

#### MAIN MENU

- 3 Mobile
- Automobile Association
- Admiral Insurance
- Amazon Online
- Apple
- Argos
- Asos
- Attendance Allowance
- Barclays Bank

Although the Tribunal noted that it may not have been the intention of the Level 2 provider to deliberately mislead consumers, the Tribunal was of the view that it was the responsibility of the Level 2 provider to ensure that the Service was promoted in a way that did not mislead consumers. The Tribunal accepted that the Level 2 provider had taken some steps to improve the Service but was of the view that these were not sufficient to remedy this breach. This is because this breach was concerned with the information that appeared about the Service in various search engines.

In light of the above, the Tribunal were persuaded on the balance of probabilities that the breach of paragraph 3.11.3 Special Condition ICSS 1 had occurred.

Decision: UPHELD

### **Alleged breach 4**

#### **Paragraph 3.11 3 Special Conditions**

**ICSS 2** *"Services must not promote using URLs which mislead the consumer into believing the ICSS website is associated with the organisation they are seeking; this includes (but is not limited to) the domain name and any subdomain."*

1. The Executive submitted that the Level 2 provider had acted in breach of Special Condition ICSS 2 as it promoted the Service using URLs which could mislead the consumer into believing that the Service website was associated with the government organisations that the consumer was seeking.

The Executive explained that a URL consisted of the entire website address and that the URL would contain the domain name which was the main name of the website address. The Executive further explained that a URL would also contain a directory at the end which was specific to the location or the page being viewed.

The Executive observed that the full URLs which promoted the Service varied depending on the end organisations that the call connected to. However, the Executive provided some examples of the URLs used by the Level 2 provider to promote the Service:

- <https://www.contactphonenumbersuk.com/working-tax-credit-phone-number/>
- <https://www.contactphonenumbersuk.com/barclays-contact-number/>
- <https://govbenefits.uk/budgeting-loan-number/>
- <https://govbenefits.uk/universal-credit-number/>
- <https://www.contactuniversalcredit.co.uk/how-to-appeal/>
- <https://www.contactuniversalcredit.co.uk/pip-helpline/>
- <https://www.familyconcerns.net/jsa-contact-number/>
- <https://www.familyconcerns.net/child-maintenance-service/>



- <https://www.telephonelists.com/tax-refund-number/>
- <https://www.telephonelists.com/self-assessment-helpline/>

The Executive submitted that the domain names used by the Level 2 provider included names such as “Govbenefits.uk”, “Contactuniversalcredit.co.uk” and “familyconcerns.net” were misleading. In particular, the Executive asserted that “gov.uk” was known to be an official domain name for the British Government and that similarity between this and “Govbenefits.uk” was more likely than not to mislead consumers into thinking that they were contacting a government department directly.

The Executive also argued that the domains “Contactuniversalcredit.co.uk” and “familyconcerns.net” gave no indication to consumers as to the true nature of the Service.

The Executive also relied on the complainant evidence which demonstrated that the consumers concerned had been unaware that they were contacting a call connection service.

In conclusion, the Executive submitted that the Level 2 provider had used URLs which misled consumers into believing that the Service was connected with the government organisations which they were seeking.

2. The Level 2 provider explained that it had used the domain names in question for a number of years and had been unaware that there were any concerns in relation the URLs that were used to promote the Service. The Level 2 provider submitted that it had never received any complaints regarding the Service and that it had never intended to mislead any consumers through the use of the domain names concerned.

The Level 2 provider stated that it had been unaware of the Special conditions for ICSS and that it had thought a disclaimer and an IVR were sufficient to be compliant with the Code. The Level 2 provider re-iterated that it had sought advice from the Network Operator to try to make the Service compliant. However, the Level 2 accepted that ultimately it was its responsibility to ensure compliance.

The Level 2 provider explained that when it had initially entered the premium rate services market, the numbers that were used by the Service were not subject to regulation by the Executive. The Level 2 provider stated that while it was aware that the numbers had become regulated (as a result of contact from the Network Operator) it had not appreciated that it needed to alter the domain names in order to adhere to the requirements of the Code including the Special conditions.

3. The Tribunal examined all of the evidence before it, including the representations by the Level 2 provider.

The Tribunal was of the view that the URLs used to promote the Service were capable of misleading consumers into believing that the Service was associated with the various government organisations that it connected to. In particular, the Tribunal considered that the use of the domain “govbenefits.uk” within a URL was particularly misleading as it gave the impression that a consumer would be contacting a government organisation with the gov.uk domain. It also noted the use of government agency logos. The Tribunal also took note of the complainant evidence which made it clear that the consumers had not appreciated that the Service they were using was a premium rate service that was not connected to the organisation that they were trying to contact.

The Tribunal accepted that the Level 2 provider may have used the domain names for a number of years and did not perceive this was a problem. Nonetheless, the Tribunal was of the view that it was the responsibility of the Level 2 provider, as a regulated service, to ensure that it familiarised itself with the Special conditions that apply to its services.

In light of the above the Tribunal was satisfied on the balance of probabilities that a breach of paragraph 3.11.3 Special Condition ICSS 2 had occurred.

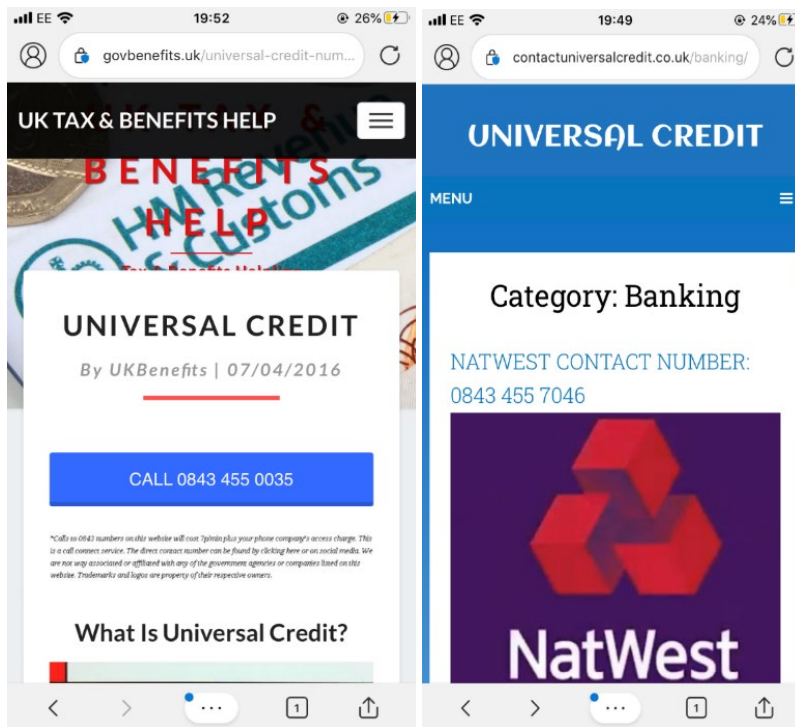
Decision: UPHELD

### **Alleged breach 5**

#### **Paragraph 3.11 3 Special Conditions**

**ICSS 4** *“All promotional material must be distinct in appearance from that of the organisation being sought by the consumer. Promotions must not use descriptions, colour, typeface or logos or marks which imitate, or may be perceived to imitate the organisation the consumer is seeking, nor should any official logos or marks of those organisations be used. Promotions must not imply that the information being provided to the consumer is unique to an ICSS when the same information is available from the relevant organisation”*

1. The Executive relied on the monitoring evidence that it had gathered to demonstrate that a breach of paragraph 3.11.3 Special Conditions ICSS 4 had occurred as set out below:



TELEPHONE LISTS

Business Directory

[f](#)
[g+](#)
[t](#)
[e](#)

[Home](#)
[Contact](#)

Home

High Street


Green Flag Breakdown

GREEN FLAG BREAKDOWN

CALL 0843 455 0160

\*Calls to 0843 numbers on this website will cost 7p/min plus your phone company's access charge. This is a call connect service. The direct contact number can be found by clicking here or on social media. We are not way associated or affiliated with any of the government agencies or companies listed on this website. Trademarks and logos are property of their respective owners.

**WHO ARE GREEN FLAG**



Green Flag is a UK based road breakdown company which has been operating for more than 40 years. The organisation provides a quick response road recovery breakdown service to its customers throughout the UK and Europe.

The firm has been awarded a 5 Star Defaqto rating for its services which operate 24 days a week and 365 days a year, while its high levels of customer service quality have also been recognised.

**Car recovery packages.**

There are five types of cover available from Green Flag, with each package having

OTHER COMPANIES

[Argos](#)
[Asos](#)
[Budgeting Loans](#)
[Green Flag Breakdown](#)
[Groupon](#)
[Natwest Bank](#)
[Netflix](#)
[Npower](#)
[PIP Helpline](#)
[Scottish Power](#)
[Self Assessment Info](#)
[Talk Talk](#)
[Tax Credits](#)
[Tax Refund Number](#)
[Thomson Holidays](#)
[Ticketmaster](#)

TELEPHONE LISTS

Business Directory

[f](#)
[g+](#)
[t](#)
[e](#)

[Home](#)
[Contact](#)

Home

Telecoms

Talk Talk Customer Service

TALK TALK CUSTOMER SERVICE

CALL 0843 455 0100

\*Calls to 0843 numbers on this website will cost 7p/min plus your phone company's access charge. This is a call connect service. The direct contact number can be found by clicking here or on social media. We are not way associated or affiliated with any of the government agencies or companies listed on this website. Trademarks and logos are property of their respective owners.

**TalkTalk**

**Brighter Phone & Broadband**

**A Look at the History of Talk Talk Company.**

TalkTalk Telecom Group is a company which offers services such as television, internet access, telecommunications and mobile network. To companies as well as individuals in the UK. Launched in 2003, the company has definitely come a long way since its humble beginnings.

Over the years, TalkTalk has evolved in a big way and is continuously gathering a strong and ever-growing client base in the UK. Today, it is one of the leading telecoms company in the United Kingdom. And it has managed to carve this impressive niche for itself in less than a decade's time. Thus, the Talk Talk customer service number is definitely one of the most in-demand numbers in UK.

OTHER COMPANIES

[Argos](#)
[Asos](#)
[Budgeting Loans](#)
[Green Flag Breakdown](#)
[Groupon](#)
[Natwest Bank](#)
[Netflix](#)
[Npower](#)
[PIP Helpline](#)
[Scottish Power](#)
[Self Assessment Info](#)
[Talk Talk](#)
[Tax Credits](#)
[Tax Refund Number](#)
[Thomson Holidays](#)

18

The Executive submitted that the monitoring demonstrated that the Service had used the actual end organisation's logos in its promotion. The Executive submitted that as the logos appeared in close proximity to the click-to-call premium rate number, this was more likely than not to mislead consumers into believing that they were contacting the relevant end organisation directly.

The Executive further noted that the Level 2 provider had made no attempt to remove the logos from the Service promotion.

2. The Level 2 provider stated that it had been unaware that the use of company logos was not permitted by the Special conditions for all of the reasons it had previously stated. The Level 2 provider stated that it would remove the logos as required to ensure that consumers were not misled into using the Service.
3. The Tribunal considered the evidence before it. The Executive was of the view that the use of familiar and well-known logos in the promotion of the Service meant that consumers were unlikely to draw any distinction between the Service and the end organisation.

The Tribunal noted that the Level 2 provider stated it had not been aware of the requirements of the ICSS Special Conditions as whole, but as before took the view that it was the responsibility of the Level 2 provider to ensure adherence to the Code including the Special Conditions.

Accordingly, the Tribunal was satisfied on the balance of probabilities that a breach of paragraph 3.11.3 of the Code had occurred.

Decision: UPHOLD

## **Alleged breach 6**

### **Paragraph 3.11.3 Special Conditions**

**ICSS 5** *"Promotional webpages containing the call to action must display the accurate description of the true nature of the service, cost of the call per minute and/or per call followed by the words "plus your phone company's access charge", and provider name prominently in close proximity to the call to action, e.g. "call connection service, calls cost £X.XXp per minute or £X.XXp plus your phone company's access charge, operated by XXX Ltd"."*

1. The Executive relied on the monitoring of the Service to assert that a breach of Special Condition ICSS 5 had occurred. In particular the Executive asserted that:
  - pricing was not proximate to the click-to-call at each instance
  - pricing was occasionally displayed as 5p per minute or £0.07 when the true cost of the service should have been stated as 7p per minute

- promotional webpages did not prominently state who the provider of the Service was
- the disclaimer later added by the provider was not easily legible, in small and sometimes italicised font.

The Executive submitted that the pricing was not sufficient to inform consumers of the pricing in any of the Service's promotional webpages as evidenced by the extensive monitoring evidence that it had gathered (a sample of which is included below):

Reader View Available


UK TAX & BENEFITS HELP

Budgeting Loan Number 0843 455 0031

UKBenefits / 30/03/2016

**Important:** This is a **Call Connect Service**.  
Calls to this number cost 7p per minute,  
plus your operator's access charge.  
We are not associated with UK Government.

CLICK TO CALL



Are you in need of a loan and are dreading the hefty interest rates that come with commercial high interest loans? Your best bet is the budgeting loans. Call the Budgeting Loans Number [0843 455 0031](tel:08434550031)

govbenefits.uk

### How to Apply For a Budgeting Loan

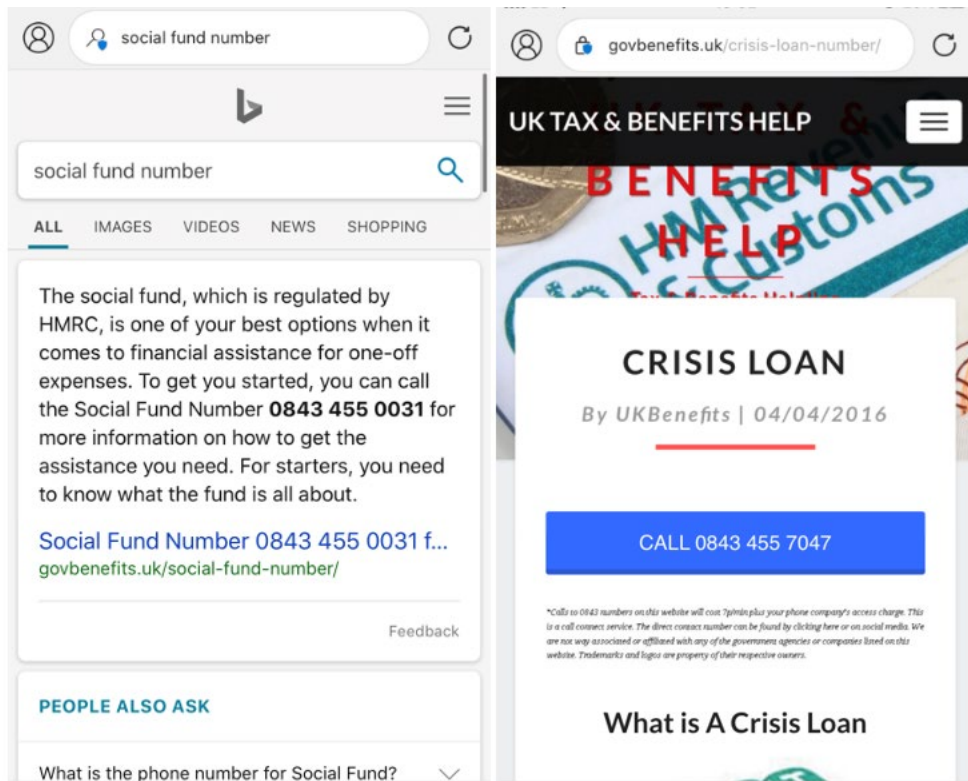
If you think that you qualify for his loan, all you need to do is complete an application form. You can get this form on the official Jobcentre Plus websites or at your local office. If you are stuck when filling the form or simply want to trace the progress of the application or place a query, you can always call the Budgeting loans number [0843 455 0031](tel:08434550031).

When filling the form, you need to be categorical about;

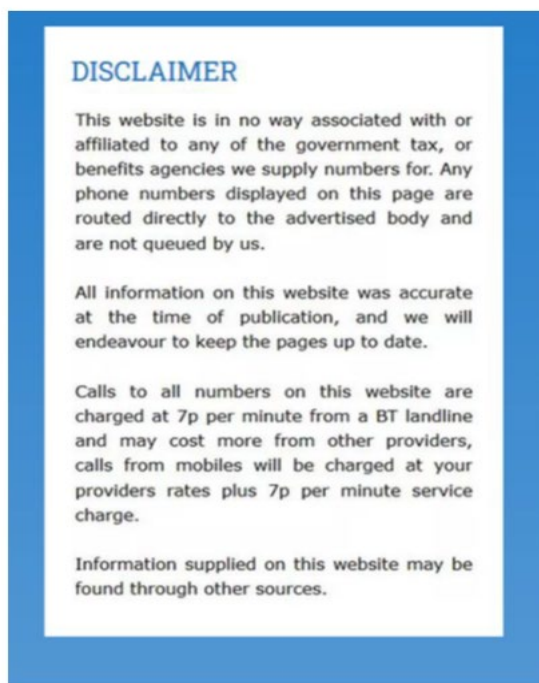
- Your national insurance number
- The benefits you are currently getting
- Details of any other debts
- Total savings under your name
- The number and condition of those living with you

It is important to note that the application process for the loan takes about 6 weeks. If you have not received any feedback, it is important to place a query with your local office.

There are times that you may have a pressing need that cannot wait for the entire processing period. In



The Executive outlined that when made aware of the Executive's concerns regarding pricing information, the Level 2 Provider added the following to the Service webpages on 22 December 2019:



The Executive responded to the Level 2 provider in relation to the changes advising that they were insufficient as follows:



*“This would not be deemed prominent especially as a click to call action button is available.”*

The Executive referred the Level 2 provider to the Compliance Team in order to seek further advice and sent the Level 2 provider a link to the Guidance on the Special Conditions for ICSS. The Level 2 provider responded by making further changes which included the insertion of the following disclaimer:

*\*Calls to 0843 numbers on this website will cost 7p/min plus your phone company's access charge. This is a call connect service. The direct contact number can be found by clicking here or on social media. We are not way associated or affiliated with any of the government agencies or companies listed on this website. Trademarks and logos are property of their respective owners.*

The Executive noted that the above disclaimer added was not easily legible, and that the pricing was not prominent or proximate in each instance to the click-to-call premium rate number displayed on the webpages.

When questioned by the Tribunal, the Executive confirmed that it had offered the Level 2 provider assistance in order to assist its understanding of the requirements of the Code. In particular the Executive had offered the Level 2 provider a meeting with the Compliance Team in the event that corresponding by email alone was too difficult to understand.

Although the Executive recognised that the Level 2 provider had made changes to the Service which meant that it was no longer being promoted without any pricing information, the Executive submitted that these changes were not adequate. The Executive argued that the pricing on occasion remained incorrect and that it was not always prominent (given the small italic font used) or proximate to the call-to-action button. In addition to this, the Executive argued that the provider's name did not always appear. The Executive stated that it had tried to assist the Level 2 provider to ensure its compliance with the requirements of the Code but that it was ultimately the responsibility of the Level 2 provider to ensure that the Service was compliant.

As a result of all of the above the Executive submitted that the Provider had breached Paragraph 3.11.3 Special Condition ICSS 5.

2. The Level 2 provider explained that it had made changes to the Service soon after it was notified by the Executive that the Service was non-compliant. The Level 2 provider also stated that it had amended the original disclaimer on the advice of the Executive and that it had considered the changes that it had made to be sufficient.

The Level 2 provider indicated that the Code and the various guidance which was issued by the Executive was not always easy to follow or understand. The Level 2 provider indicated that it had sought advice from the Network Operator on compliance



and that it had thought that the disclaimer was sufficient to ensure compliance with the Code.

When questioned by the Tribunal the Level 2 provider confirmed that it had only added disclaimers to some of the promotions for the Service which it considered to be high risk. The Level 2 provider confirmed that it intended to add the disclaimers to all of the promotions for the Services but that it had limited resources to enable this to be done.

The Level 2 provider confirmed that it had now contacted the Executive's Compliance Team (in the week and a half prior to the hearing). The Level 2 provider confirmed that it had not contacted the Compliance Team previously as it had thought that the disclaimer it had added was sufficient as it now included the pricing.

The Level 2 provider indicated that it was willing to make further changes to the Service in order to ensure that it was compliant.

3. The Tribunal carefully considered all of the evidence before it including the representations made by Level 2 provider both in writing and at the Tribunal.

The Tribunal agreed that the disclaimers which had been added by the Level 2 provider represented a limited improvement on the Service as a whole. However, the Tribunal was concerned that not all of the promotions for the Service included the disclaimer. In addition to this the Tribunal also noted that the disclaimer sometimes appeared to be in a very small, italicised font which meant that it was not prominent and/or proximate to the call-to-action button. The Tribunal noted that the Executive had conducted recent monitoring of the Service (in February 2021) which demonstrated that this was still the case for many of the promotions for the Service.

The Tribunal considered the representations that the Level 2 provider had made regarding the difficulties it faced in understanding the requirements of the Code and Guidance issued by the Executive. The Tribunal noted that the Executive had taken steps to assist the Level 2 provider, by for example providing the Level 2 provider with links to the "read aloud text-to-read" function for PDF documents in February 2021 and also through offering a meeting with the Compliance Team as set out in an email of 12 February 2021 although this was not ordinarily done.

While the Tribunal was sympathetic to some of the difficulties faced by the Level 2 provider, it took the view that this did not detract from the responsibility of the Level 2 provider to ensure that the Services which it ran and promoted were compliant with the Code. The Tribunal noted that the Level 2 provider had first been notified regarding the concerns about the Service on 23 December 2019 and that it had therefore had ample time to familiarise itself with the requirements and to make the changes required. The Tribunal observed that while the Level 2 provider may have thought that the disclaimer was sufficient it had not sought compliance advice until very recently and it was not the case that the Executive had given any assurances that the Service was compliant.

Accordingly, the Tribunal decided that on the balance of probabilities a breach of Paragraph 3.11.3 Special Condition ICSS 5 had occurred.

Decision: UPHELD

### **Assessment of breach severity**

The Tribunal's initial assessment of the breaches of the Code was that they were, overall, very serious. In making this assessment, the Tribunal found the following:

#### **Rule 2.3.10 – Vulnerability**

This breach was **very serious**.

The Tribunal considered the breach to be very serious. While the Tribunal accepted that the breach may have been committed recklessly, the result of the breach was that it took unfair advantage of consumers who were in a position of vulnerability.

The Tribunal considered that the breach was also likely to severely damage consumer confidence in premium rate services as a result of the unfair advantage that had resulted to vulnerable consumers.

The Tribunal also noted that the complainant accounts received indicated that consumers had incurred a very high cost. Specifically, in relation to the 22 numbers that connected to government benefit organisations, the Tribunal also noted that the Service was incapable of providing purported value to consumers. This was because the Service connected consumers who were likely to be vulnerable as a result of financial circumstances to numbers that would otherwise have been free to call, which resulted in them incurring a cost that could have been avoided. The Tribunal also took the view that the breach was still ongoing and was therefore of a lengthy duration.

#### **Paragraph 3.4.1 – Registration**

This breach was **significant**.

The Tribunal accepted that the breach was committed negligently as opposed to deliberately. The Tribunal was of the view that the breach was of a significant duration. While the provider did eventually update its registration, for over a year a dissolved company was registered as the provider of the Service.

#### **Paragraph 3.11.3 ICSS 1 Special Conditions**

This breach was **very serious**.

The Tribunal considered that the breach of the Special conditions for an ICSS was likely to severely damage consumer confidence in the premium rate services market as Special conditions were in place to ensure that Services which could present a higher risk were compliant.

The Tribunal noted that the breach was of a lengthy duration and that it contributed to at least two complainants incurring very high costs. The Tribunal was of the view that the breach may not have been committed intentionally but it had been committed recklessly.

#### **Paragraph 3.11.3 ICSS 2 Special Conditions**

This breach was **very serious**.

The Tribunal considered that as with the previous breach, a breach of the Special conditions for an ICSS was likely to severely damage consumer confidence in the premium rate services market as Special conditions were in place to ensure that Services which could present a higher risk were complaint. In relation to this breach specifically, the Tribunal considered that there was likely to be a clear and highly detrimental impact to consumers who were misled by the URL into believing that the Service was the official organisation that they were seeking.

The Tribunal noted that the breach was of a lengthy duration and that it contributed to at least two complaints incurring very high costs. The Tribunal was of the view that the breach may not have been committed intentionally but it had been committed recklessly.

#### **Paragraph 3.11.3 ICSS 4 Special Conditions**

This breach was **very serious**.

The Tribunal considered that the breach was repeated throughout the promotions of the Service and was therefore likely to damage consumer confidence in premium rate market as consumers were misled to believe they were contacting the true organisations by the use of logos. The Tribunal considered that this breach was also likely to have a detrimental impact on consumers and that it occurred for a lengthy duration.

The Tribunal was of the view that the breach may not have been committed intentionally but it had been committed recklessly.

#### **Paragraph 3.11.3 ICSS 5 Special Conditions**

This breach was **very serious**.

The Tribunal decided that this breach had the potential to severely damage consumer confidence in premium rate services and to have a detrimental impact on consumers. The Tribunal was also of the view that the lack of clear pricing and the information required by ICSS 5 meant that had meant that the consumers were likely to incur high costs.

The Tribunal considered that while there were some improvements to the website and IVR, both failed to include the information required by ICSS 5 and therefore the breach occurred over a lengthy duration.

The Tribunal was of the view that the breach may not have been committed intentionally, but it was committed recklessly.

## Sanctions

### Initial assessment of sanctions

The Executive's initial assessment, before any potential uplift or downgrade in light of aggravating or mitigating features, was that the following sanctions were appropriate based on a preliminary assessment of the breaches as **very serious**:

- formal reprimand
- compliance advice is sought and implemented to the satisfaction of the Executive
- a prohibition on the provider from providing, or having any involvement in, any premium rate service for a period of five years, or until all sanctions imposed are complied with, whichever is the later
- a requirement that the Level 2 provider must refund all consumers who claim a refund for the full amount spent by them on the Service within 28 days of their claim, save where there is good cause to believe that such claims are not valid, and provide evidence to PSA that such refunds have been made
- a fine of £1,300,000.00 comprised of:

Rule 2.3.10 - £250,000

Paragraph 3.4.1 - £50,000

Paragraph 3.11.3 ICSS 1 - £250,000

Paragraph 3.11.3 ICSS 2 - £250,000

Paragraph 3.11.3 ICSS 4 - £250,000

Paragraph 3.11.3 ICSS 5 - £250,000

The Level 2 provider within its written response indicated that it would agree to the formal reprimand, compliance advice and general refunds sanctions. In relation to the prohibition, the Level 2 provider did not indicate that it accepted this as it stated that it had never intended to cause any harm to consumers. The Level 2 provider did not make any specific representations in relation to the fine proposed at the initial assessment stage.

The Tribunal considered the initial assessment of sanctions carefully. The Tribunal was mindful it had found that the breaches had been committed recklessly as opposed to intentionally (save for the breach of Paragraph 3.4.1 which was negligent). The Tribunal noted that the Level 2 provider was willing to and had in fact taken some steps (albeit inadequate ones) to improve the Service.

The Tribunal agreed with the recommendations by the Executive for a formal reprimand, compliance advice, general refunds and a fine of £1,300,000 at the initial assessment stage. The Tribunal gave serious consideration to the recommended prohibition. Although the Tribunal was conscious that it was only at the initial assessment of sanctions stage which meant that it had not considered any aggravation or mitigation. However, the Tribunal was of the view that a bar rather than a prohibition was the more proportionate sanction.

This was because a prohibition would serve only to prohibit the Level 2 provider as a sole trader from involvement with premium rate services but would not prevent the Service from being run by a Ltd company or any other legal entity. In addition to this, the Tribunal was also of the view that while it had not yet considered aggravation and mitigation that it was clear that the Level 2 provider had made some improvements, and that a bar would allow the Level 2 provider an opportunity to do this while at the same time protecting consumers.

The Tribunal accordingly amended the initial assessment of sanctions to the following:

- formal reprimand
- compliance advice is sought and implemented to the satisfaction of the Executive
- that access to the Level 2 provider's Service and all of its numbers is barred for a period of two years or until the Level 2 provider has paid its fine and administration charges in full and sought and implemented compliance advice to the satisfaction of the PSA, whichever is the later
- a requirement that the Level 2 provider must refund all consumers who claim a refund for the full amount spent by them on the Service within 28 days of their claim, save where there is good cause to believe that such claims are not valid, and provide evidence to PSA that such refunds have been made
- a fine of of £1,300,000.00 comprised of:

Rule 2.3.10 - £250,000

Paragraph 3.4.1 - £50,000

Paragraph 3.11.3 ICSS 1 - £250,000

Paragraph 3.11.3 ICSS 2 - £ 250,000

Paragraph 3.11.3 ICSS 4 - £250,000

Paragraph 3.11.3 ICSS 5 - £ 250,000

## **Proportionality assessment**

Assessment of aggravating and mitigating factors

### **Aggravation**

The Executive submitted that there were a number of aggravating factors which went to the investigation as a whole.

The Executive asserted that the Level 2 provider had failed to follow the Guidance, which had it been followed it could have prevented the breaches from occurring. In addition to this, prior to the above breaches occurring, the Executive had given general compliance updates and published adjudications on its website in relation to ICSS which made it clear what was expected of such services.

The Executive also submitted that it was also an aggravating factor that the breaches had continued after the Level 2 provider had been made aware of them. The Executive argued that while some changes were made to the Service these had not resulted in the Service becoming compliant which meant that the breaches had endured over a significant period of time.

The Level 2 provider indicated that it had not been aware of the requirements of the Code and any Guidance and that it had found these difficult to understand. The Level 2 provider reiterated that it had not intended to cause any harm to consumers and that it had made changes to the Service which it had considered were adequate such as the addition of a disclaimer.

The Tribunal was of the view that while the Level 2 provider did fail to follow published Guidance or take note of previous adjudications, this had already been taken account of in its consideration to the breaches and was not therefore an additional aggravating factor. The Tribunal was also of the view that while it was correct to say that the breaches had continued after the Level 2 provider had become aware of them, this again had already been taken account of in the assessment of breach severity and it did not therefore consider this to be a separate aggravating factor.

The Tribunal also considered that any unfair advantage that had been taken of consumers who were vulnerable (even during the COVID-19 pandemic) was not separate aggravation but was instead an inherent part of the breach of rule 2.3.10.

## **Mitigation**

The Executive submitted that the Level 2 provider had attempted to remedy the breaches once they became aware of them in December 2019.

The Level 2 provider had put forward a number of mitigating factors when making representations to the Tribunal. The Level 2 provider had indicated that he had made changes to the Service through the inclusion of the disclaimer and the IVR after becoming aware that the Service was non-compliant. In addition to this the Level 2 provider indicated that he had not understood the Code requirements or some of the Executive's Guidance but that he had tried to establish what he should do in order to remain compliant. The Level 2 provider also indicated that he had engaged with the Executive and that he would be willing to make any further changes as necessary.

The Tribunal recognised that some changes had been made to the Service but was of the view that these changes were inadequate as they did not result in the Service being made compliant. The Tribunal also noted that the changes had not been applied to all of the promotions for the Service. The Tribunal accepted that this was a mitigating factor but was of the view that it was

limited in weight. The Tribunal did not consider it as mitigating that the first breach found proved (rule 2.3.10 Vulnerability) was only applicable to 22 of the numbers that the Service used.

The Tribunal did not consider the difficulties that the Level 2 provider had in understanding the Code or the Guidance as a mitigating factor to the investigation as a whole. The Tribunal considered that while the Level 2 provider may have had some difficulties as described, the onus was on the Level 2 provider to ensure that the Service was compliant.

The Tribunal noted that the Level 2 provider had engaged with the Executive throughout the course of the investigation and that it displayed a willingness to make further changes to the Service. Although the Tribunal regarded this as positive, the Tribunal was of the view that as the provider of a regulated service, the Level 2 provider was obliged to engage with the Executive to ensure compliance. Accordingly, the Tribunal did not consider this to be an additional mitigating factor of the case.

### **Financial benefit/Need for deterrence**

The Executive stated that the Level 2 provider had generated an estimated £45,562.13 (out of a total Service revenue of £74,532.35).

The Executive submitted that the revenue flowed directly from the breaches in the case (save for the breach of paragraph 3.4.1). The Executive argued that the breaches had occurred throughout the operation of the Service as the attempts to remedy the breach had been insufficient. In addition to this, the Executive submitted that the nature of the breaches (misleading URLs, use of logos, insufficient information regarding pricing and the true nature of the Service) meant that consumers had not been provided with sufficient information to make an informed decision in relation to using the Service at all.

The Executive argued that, in light of the seriousness of the breaches and the need to deter conduct of this nature, there was a need to remove this financial benefit accrued from the breaches, through the imposition of a substantial fine.

The Level 2 provider indicated that the revenue figure of £45,562.13 was incorrect as it took account of revenue that was obtained prior to the start of the investigation and as it did not take account of recent revenue. The Level 2 provider also indicated that the revenue had fallen in recent months with the figure being £1,353 for January 2021.

The Tribunal considered the revenue figure that it should use for the purposes of sanctioning. It noted that while the Level 2 provider appeared to dispute the revenue figure the Level 2 provider had not put forward any evidence to support an alternative level of revenue. The Tribunal was therefore of the view that in the absence of any other evidence it considered that figure of £45,562.13 to be the revenue figure.



The Tribunal was satisfied that the revenue flowed from the breaches for the reasons advanced by the Executive. The Tribunal also agreed that there was a need to remove the financial benefit accrued from the Service given the nature of breaches in order to send out a clear message to the wider industry that services which take unfair advantage of consumers and/or mislead consumers were not acceptable.

### **Sanctions adjustment**

The Executive stated that the recommended initial fine amount far exceeded the revenue generated and that the recommended fine, in combination with the recommended non-financial sanctions, would be likely to have a significant impact upon the Level 2 provider.

In light of this the Executive submitted that the recommended fine amount should be adjusted downwards in the interests of proportionality, to a total fine of £200,000.

The Level 2 provider indicated that it would not be in a position to pay any fine.

The Tribunal noted that it did not have any evidence before it in relation to the specific financial circumstances of the Level 2 provider and its ability to pay a fine. However, the Tribunal agreed that a fine was likely to have a significant impact on the Level 2 provider given that the Level 2 provider was a sole trader.

The Tribunal decided that despite this impact, it was still necessary to impose a financial penalty on the Level 2 provider in order to ensure that the sanctioning objective of credible deterrence was achieved.

The Tribunal agreed with the Executive that it was appropriate to adjust the initial recommended fine downwards in order to ensure a proportionate outcome. The Tribunal was however of the view that the figure of £200,000 as recommended by the Executive was still too high given the likely impact on the Level 2 provider.

The Tribunal decided that a lower figure of £135,000 was sufficient to achieve the sanctioning objective of credible deterrence in combination with the other sanctions. The Tribunal considered that this amount still removed the revenue which had been generated by the Service and represented a significant uplift from the revenue that had been made. Accordingly, the Tribunal was of the view that this figure was appropriate and proportionate in balancing the impact on the Level 2 provider with the need to achieve credible deterrence through sanctioning.

### **Sanctions imposed**

- formal reprimand
- compliance advice is sought and implemented to the satisfaction of the Executive
- that access to the Level 2 provider's Service and all of its numbers is barred for a period of two years or until the Level 2 provider has paid its fine and administration charges in

full and sought and implemented compliance advice to the satisfaction of the PSA, whichever is the later

- a requirement that the Level 2 provider must refund all consumers who claim a refund for the full amount spent by them on the Service within 28 days of their claim, save where there is good cause to believe that such claims are not valid, and provide evidence to PSA that such refunds have been made
- a fine of £135,000.

Administrative charge recommendation: 100%