

Advice to Ofcom from the Ofcom Consumer Panel



Title of Ofcom Project:	Mis-selling in the mobile market
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Introduction

1. At the 18 December 2007 Consumer Panel meeting, the Panel discussed a paper on Mis-selling in the mobile market provided by Ofcom (paper CP/2007/59). The paper set out the scope, timelines and objectives for Ofcom's mobile mis-selling project.

Key points from the Panel

2. The Consumer Panel is very concerned by the number of consumer complaints that were received about these issues in 2007, particularly the spike of complaints related to cashbacks in the second half of 2007. The Panel is therefore happy that Ofcom is looking into these problems, and is keen to offer its thoughts.

Nature of mis-selling and cashback problems

3. The Panel understands that the problems experienced by consumers have been caused both by deliberately abusive practice and by negligence on the part of the resellers. However, the Panel does not understand what the balance is between these two underlying causes and would like to receive more information from Ofcom to get a clear picture.

Options to tackle mis-selling and problems with 'bad' cashback deals

4. The high volume of complaints about mis-selling and cashback schemes, and the failure of the mobile industry's voluntary code of practice to reduce the level of these complaints, have informed the Panel's views on which of Ofcom's stated options are preferable.
5. Given the clear and continuing consumer detriment in this area, the Panel does not support the options set out by Ofcom (Options A1 and B1) of continuing to rely on the voluntary code, with review in 6-12 months.

6. The Panel thinks that Ofcom should not rule out Option A2, of using existing Ofcom regulation in this area. This is because of the better regulation practice of using existing regulation when possible, to which the Panel would like to draw Ofcom's attention.
7. To tackle mis-selling, the Panel favours Option A3, to regulate the mobile operators by amending existing regulations or introducing a new General Condition.
8. To tackle problems with 'bad' cashback deals, the Panel thinks that option B4 (i) – to regulate the mobile operator by automating cashback – would be most likely to provide a simple and fail-safe approach.

ADR Schemes

9. In terms of regulating the mobile operators, the Panel would like to see changes made which would give consumers recourse to ADR schemes, such as Otelo or CISAS.
10. The Panel understands that there is currently no legal liability on the mobile operator when a consumer is mis-sold or experiences a "bad cash-back deal". It would be useful for Ofcom to explain this situation in its consultation document.
11. The Panel further believes that Ofcom should investigate how recourse to ADR could be ensured for consumers, either through the legal liability of the mobile operators who already belong to such schemes, or by requiring resellers to belong to an ADR scheme.