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## 2.0 Billing

### 2.1

C had their mobile stolen when abroad but did not report it until they returned home. C says they could not get in contact with SP on the contact details it had provided and feels the phone should have been barred as soon as high usage became apparent. SP advises there is a delay in the data received from overseas operators but the phone was barred as soon as it received the data concerned and high usage was evident. SP has already offered to reduce the outstanding amount.

The Ombudsman found that C was responsible for reporting the phone stolen and considered the offer already made by SP to be reasonable. SP was also required to offer a payment plan as a gesture of goodwill due to the large amount still outstanding.

### 2.2

C complained that SP had let a large bill accrue, without alerting them sooner. SP investigated the complaint and found it had done nothing wrong; C had made the calls, which required payment. However, it suggested a goodwill gesture and a payment plan. C rejected the offer wanting the arrears to be waived.

The Ombudsman considered the actions taken by SP were appropriate, as was the goodwill gesture. However, the Ombudsman decided the debt should be further reduced and the payment plan was set too high for C's limited income. C was recommended to provide a financial statement in order that a more favorable arrangement could be considered and proposed by SP.

### 2.3

C discovered a default on a credit file placed by SP. SP stated that the default was correctly placed. The evidence found that SP could not demonstrate that the debt collection process was followed correctly or that billing was sent to collect payment.

SP was required to remove the default placed onto C's credit file

## 3.0 Broadband

### 3.1

C signed up to SP for telephone and broadband service. C was unable to connect to broadband. C made many calls to technical support and requested cancellation. SP would not accept cancellation without penalty. C complained to Otelco.

The Ombudsman considered that C repeatedly reported connection problems and SP failed to resolve them. The Ombudsman required SP to accept cancellation without penalty, to refund all broadband payments and to provide a goodwill payment in recognition of the shortfall in customer service.

### 3.2

C placed an order for broadband however it was not processed. C alleges the retailer provided misinformation about the service and the costs incurred from the previous service provider. C was unable to access the broadband due to faults that were not resolved. The SP agreed to cancel the services without penalty and provide a refund of the charges.

The Ombudsman concludes there was a shortfall in customer service at times on this case however SP is not contractually obliged to provide compensation for losses. In summary the Ombudsman requires SP to refund all payments made in relation to the broadband contract in goodwill; refund all service charges from the house move onwards by cheque; remove the alarm placed on C's line at their previous address; ensure that no correspondence is issued to the old address and provide a written assurance that C's credit file has not been adversely affected; make a goodwill gesture in recognition of the contact costs incurred and inconvenience caused; and to issue a formal letter of apology.

### 3.3

C's broadband service failed and they contacted SP for technical help. SP checked the line which indicated no fault and ran C through a series of tests which did not correct the problem. SP determined that the fault was within C's equipment. C employed an IT engineer who tried to fix the problem for several days before it was established that the fault was within the SP exchange.

C received a bill from the IT engineer and asked SP to reimburse the charges and to make a payment for their time. SP was not willing to cover the costs but did make a goodwill offer. No agreement was reached so SP issued a deadlock letter. SP withdrew its offer after it was rejected by C.

The Ombudsman considered SP's offer fair and reasonable and required it to reinstate its offer.

### 3.4

C entered into an agreement of services with SP and could not connect to broadband. SP accepted that broadband could not be provided. It was found that C was

inconvenienced with regards to not being able to receive broadband after initially being signed up to the service. C was also not shown a level of service normally expected.

SP was required to offer penalty free cancellation, refund the connection fee, make a goodwill gesture award against any outstanding balance and refund any amount remaining, by cheque, confirm that the account is closed and send a letter of apology for the service shortfalls highlighted in the provisional report.

### 3.5

C signed up to a broadband service and could not get connected. SP stated that DACS was present on the line and this prevented the provision of the broadband service. It was accepted that the initial delay was due the DACS being present. But it was found that SP did not offer to cancel the service when becoming aware of not being able to provide the broadband service as set out in the company's terms and conditions. C was also not shown a level of service normally expected.

SP was required to offer penalty free cancellation of the broadband service as a goodwill gesture, remove any tags or marker from the line to enable the transfer to a alternative Internet supplier, make a goodwill gesture credit, against the outstanding balance and send a letter of apology for the service shortfalls highlighted in the report.

### 3.6

C experienced a loss of broadband service and made a claim for alleged business losses. SP accepted that C had a loss of broadband and that a credit was applied to the account to reflect this. It was found that SP does not have compensation scheme for broadband loss and C's claim for compensation was declined

SP was required to send C a copy of the service agreement as initially requested, make a goodwill gesture credit against the remaining outstanding balance, to confirm in writing what credit (if any) has been applied to the account to reflect the broadband loss and send a letter of apology

### 3.7

C complained that SP had failed to deal properly with a complaint about broadband connection problems. C claimed the problems had not been fixed and wanted a stable connection established. C claimed the amount of compensation offered by SP had been inadequate and wanted this increased, as well as an inquiry into the handling of the complaint raised and a written apology from a company director. SP claimed the issues had been investigated and remedied in accordance with its standard procedures and provided a breakdown of the compensation sum it had offered in an effort to resolve the issue.

The Ombudsman agreed that SP had investigated and fixed the problem and offered reasonable compensation in all the circumstances. The Ombudsman required SP to

write to C in accordance with its standard procedures and reinstate its previous offer of compensation.

### 3.8

C could not get the broadband service connected. SP stated that C must a minimum PC specification to get connected but did not. It was found that C did not have the correct PC and did not contact SP enough to get the service connected. C did not receive a level of service normally expected.

SP was required to contact C by telephone to discuss the broadband technical issues. If unable to get the service connected then SP Toucan should offer penalty free cancellation, refund all charges raised to date send a letter of apology for the service shortfall highlighted in the report  
If connection is successful, SP was required to clear 50% of the charges raised to date, send a clear breakdown of the account and send a letter of apology for the service shortfall highlighted in the report

## 5.0 Cancellation

### 5.1

C had a contract with SP and then received a sales call regarding an upgrade. C agreed to a new 18-monh contract at a cheaper monthly rate, but when the paperwork was received C disputed the contract and maintained the sale had been rushed through. SP investigated and maintained that C was not mis-sold.

A copy of the sales recording was provided and from this, the investigation was satisfied that C had agreed in full to the new contract. On this basis, the investigation was satisfied that C had not been mis-sold. However, as C had contacted SP within days of the oral agreement in order to contest it, the investigation was satisfied that, in line with the conditions of the Distance Selling Regulations, C should have been entitled at this point to cancel the new agreement, regardless of whether or not C had agreed to it or not. The investigation also found other shortfalls in customer service and, therefore, it was proposed for SP to revert C back to the original tariff and remove any charges added since the upgrade, and also provide C with a goodwill payment and apology.

## 8.0 Customer Service

### 8.1

C took a package with SP as an upgraded contract. SP was not able to properly provide this package which led to C having to make repeated contacts with SP to ask for the

package to be provided properly. SP provided numerous credits to C's account to correct matters but was not able to correct the situation. This was considered poor customer service. C asked to cancel the contract and was told that there was an early termination fee to be paid. C objected. SP accepted that this account should be cancelled on a fee free basis given the problems experienced.

SP was required to provide a 'breakdown' of the account since the contract was started o the present time showing all charges, credits and payments in a consecutive manner in order that C could be assured that the charges applied to the account were correct, to provide a goodwill gesture, in the form of a credit to the account, to provide a credit to cover any line rental charges raised after the cancellation was first requested and to provide a closing balance for the account.

## 8.2

C was going away and contacted SP to request it removed the international roaming bar facility on the account so that contact could be made with C's family back home. SP confirmed to C prior to going away that this had been actioned. However when C was abroad, C was unable to use the handset; it transpired that SP had made an error in not lifting the bar. C complained to SP that as a direct result of this, C's holiday was ruined as C was not able to enjoy its full benefits and was also not able to contact family throughout. SP acknowledged its error and offered C a goodwill payment, but this was declined and the matter reached deadlock.

In this instance, although it was clear that SP had made an error in not lifting the bar as requested, and this was a shortfall in customer service that would have undoubtedly caused C and C's family some inconvenience, it was not satisfied that C's request to be reimbursed for a fully paid holiday was warranted. The investigation was satisfied with SP's previous offer and therefore, it was proposed that this was retained.

## 8.3

C was a customer of another provider but found that C's two lines had been disconnected. It transpired this was as a result of work by the network. C complained via the provider but to no avail and a call divert was set up. Later on, C was persuaded to rejoin SP on the proviso that it would be able to reinstall C's services as before. However, due to the previous network actions, SP was unable to do this as it had been implemented due to industry regulations. SP apologised for the incorrect information and offered C a resolution, but this was declined.

The investigation considered that the events that took place initially could not be commented on as it was clear those actions did not come about as a direct result of SP. C was not SP's customer at that time, and the network responsible for the action, was not a member of Otelo. SP's comments regarding it being unable to re-provide C's service as before was also acknowledged. However, it was clear that SP had incorrectly advised C on this and, therefore, C paid for four lines instead of two. On this basis, the investigation proposed to retain SP's offer of a free caller redirect facility for six months but also for C not to be charged for the lines during this period, as a further goodwill

gesture. Then, when the six month period had passed, the redirect facility would be removed, along with the relating telephone lines, again without charge to C. It was considered this was the best way to minimize any further impact on C's business.

#### 8.4

C had been a recent customer of SP but had experienced several different problems with it in relation to billing, credits, a lack of response and also general customer service issues. C had made complaints to SP over the months but remained unhappy with the lack of response.

The investigation found that initially, SP had responded to C and explained an error with its billing system and also agreed to credit C's account. However, it was clear this was not actioned for several months later following further contact from C. C then sent formal written complaints to SP, but received no adequate response. The investigation was satisfied that C had received shortfalls in customer service from SP and therefore it was proposed for SP to provide C with a small goodwill payment and also an apology.

### 12.0 Disputed Charges

#### 12.1

C cancelled their telephone and broadband services and asked SP to provide a MAC code to enable a switch to the new provider of the broadband service. C claimed that SP delayed sending the MAC on two occasions which meant that the new SP could not use it. C also claimed that SP continued to charge for the transferred services and, when payment was not made, threatened to take court action. As resolution, C wanted a MAC code, credit for any charges imposed after cancellation, refund of any money wrongly taken and a letter of apology. In its response, SP accepted that an error in its system had caused the problems. It said that it had now cancelled any charges sought after the accounts had been cancelled and offered to apologise and make a goodwill payment.

The Ombudsman required SP to issue a new MAC code as soon as possible, to confirm that any threatened legal action had been cancelled and to implement the other actions offered in its response to the request for the case file.

#### 12.2

### DOMESTIC CUSTOMER - MOBILE PHONE CALLING CARD

The complainant claimed that before using a Calling Card to make International calls the complainant checked that free minutes on the account would be included in the use. The complainant later received bills showing full charges for the calls the complainant had made. The complainant complained about this to the Service Provider but the

Service Provider maintained that the charges were valid. The complainant was unhappy with the response received from the Service Provider and with the manner in which the complainant had been dealt with, so the complainant brought a complaint to the Ombudsman.

The Ombudsman examined a contact history document the Service Provider supplied in response to the complaint. The Ombudsman could see that this document contained comprehensive details of contacts the complainant had made for various reasons over a long period of time. The Ombudsman commented that given the detail in this document, had the complainant called to enquire about the use of the Calling Card then it was expected that an entry about this would be found in the record. No such entry existed. The Ombudsman came to the conclusion that it was reasonable to conclude that it was highly unlikely that the complainant had contacted the Service Provider before using the Calling Card.

The Ombudsman also examined details of all contacts and correspondence that had passed between the parties about the disputed charges. The Ombudsman could find nothing that gave cause for concern about the level of customer care the SP had given to the complainant.

In conclusion, the Ombudsman decided that the charges were valid, the complainant was responsible for them and therefore, the Service Provider need not take any further action about the complaints.

### 12.3

C made a Direct Debit indemnity claim for all payments that had been made to SP since the account was set up. SP issued a cheque to C's bank in respect of the indemnity claim, then sent C a bill for charges on the account, as all payments to it for services C had used had been refunded. C disputed the bill and it was identified that C's Direct Debit details had been duplicated on another customer's account, due to an administrative error. SP accepted that it was at fault for the error, and that it had incorrectly taken payments from C's bank account for someone else's account. However, it confirmed C's bank details had not been disclosed to the other customer, and that it had acted promptly to rectify the mistake. SP agreed C was due a refund for the payments taken in relation to another customer's account, but considered C was still responsible for payment of charges for service C had used. It offered a payment as a gesture of goodwill, which C declined.

The Ombudsman considered the administrative error made by SP to be regrettable. However, it was considered that the goodwill offer made by SP was reasonable and the Ombudsman was satisfied SP had thoroughly investigated the mistake made and taken prompt action to rectify it. As the Direct Debit error had not affected the services C had received or used from SP, C was considered to be responsible for payment of them. SP was required to maintain its offer of a goodwill payment. No further award was required.

### 12.4

## DOMESTIC CUSTOMER - DISPUTED CHARGES

The Service Provider provisioned a broadband service to the complainant but the complainant experienced difficulty accessing or using the service. The complainant complained to the Service Provider and the Provider agreed to send an Engineer out to look towards resolving the problem. The Engineer failed to turn up. However, the complainant's broadband problems were rectified. The complainant claimed that the Service Provider had charged for the Engineer's visit. The Service Provider responded by saying that it had no record of this and a summary of the complainant's bill showed that no such charge had been applied. The complainant complained to the Ombudsman.

The Ombudsman concluded that an Engineer had failed to meet the appointment and the complainant was entitled to fixed rate compensation from the Service Provider for this. The Ombudsman commented that there was no evidence that the complainant's billing was incorrect and the charges applied to it were valid. The complainant's request for a refund of the charges was therefore refused. However, the Ombudsman did note that there had been a shortfall in Customer Service as the Service Provider had not responded to a letter the complainant had sent. The Ombudsman directed the Service Provider to make a small goodwill gesture in recognition of this.

### 12.5

## DOMESTIC CUSTOMER SERVICE; CANCELLATION OF ACCOUNT AND DISPUTED CHARGES

The complainant asked the Service Provider to terminate service as the complainant was relocating. However, the Service Provider failed to action this request. The complainant sent a letter to the Service Provider and received a response saying that a system error had caused the problem. The letter also offered a goodwill gesture for the inconvenience caused. The Service Provider then failed to process termination of the account and continued to pursue the complainant for arrears that appeared on it. The complainant brought a complaint to the Ombudsman.

In response to the complaint the Service Provider accepted that it had failed to deal with the matters properly. The Ombudsman directed the Service Provider to produce a final bill showing a zero balance, confirmation that the complainant's credit rating would not be adversely affected and to make a goodwill gesture in recognition of the inconvenience that had been caused.

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### 12.6

C complained that the supplier failed to repair a fault, resulting in losses for C. C complained but the supplier maintained the charges. The supplier cited its Terms and Conditions which remove liability for payment of compensation of the sort that C requested.

The Ombudsman considered the Terms and Conditions were specific enough to avoid compensation, but the previous offer of a goodwill payment was to be increased in recognition of the inconvenience for C. It was also required to refund the two disputed payments as these were deemed to be for issues beyond C's control.

#### 12.7

C advises that they have been charged for broadband after the service was cancelled. C complains of poor customer service. SP did not provide a case file to the Ombudsman within the required timescales, which meant its views could not be considered in relation to this complaint.

The Ombudsman required SP to contact C to explain what the outstanding monies had been owed for. It was evident the account was now clear. SP was also required to apologise for shortfalls in customer service and award a gesture of goodwill in recognition of this.

#### 12.8

C received an extremely high bill which contained calls that C had not made. It was at this point that C realised that the phone has been lost and C reported this to SP. C was not happy that they remained liable for the calls made. SP informed C that the Terms and Conditions of the contract stated that a customer remained liable for the charges up until the phone was reported lost or stolen. SP had already suspended the service when it realised that there was high usage on the account. SP credited the account with a goodwill payment and offered a payment plan but C was not happy.

The Ombudsman concluded that SP had acted correctly and required SP to maintain its offer of a payment plan

#### 12.9

Mobile Phone Service cancellation.

The complainant sent a letter to the Service Provider asking for cancellation of a mobile phone contract. Because the complainant later requested a Port Authorisation Code (PAC), the Service Provider kept the account open. The complainant claimed that the complainant was oblivious to this and refused to pay charges the Service Provider applied to the account. The Service Provider maintained that the complainant was responsible for the charges so the complainant brought a complaint to the Ombudsman.

The Ombudsman noted that while the Service Provider had sent the complainant two Short Message Service (text messages) to say that the account would remain open, there was no evidence to show that the complainant had personally received the messages. The Ombudsman commented that in these circumstances it would be appropriate for the Service Provider to cancel the account from the date on which the

complainant asked for it and to withdraw any charges applied after that date. The Ombudsman further commented that the situation would have been somewhat different had the Service Provider confirmed in writing to the complainant the continuation of the account.

#### 14.0 Faults (Equipment)

##### 14.1

C purchased a mobile phone and tried to obtain a refund some weeks later on the basis it was not easy to use and the speed dial was not working. SP advises that the phone was not returned within 14 days and as such a replacement or repair can only be offered.

The Ombudsman found that the C was not due a refund and that a repair or refund should be offered. SP was required to apologise for any inconvenience caused.

##### 14.2

C took out a new broadband package with SP. The modem was incompatible with C's operating system.

C requested to cancel but the SP said this would break the contract and would carry a penalty. SP advised C where to get new drivers and covered the cost of time that C had not been able to connect. C wrote a letter of complaint to SP, but got no response.

The Ombudsman was satisfied that the SP had acted fairly in maintaining the contract. She did require that the SP make a goodwill payment and apology for not responding to C's letter.

#### 15.0 Faults (Line)

##### 15.1

C had a fault on the telephone line and reported this to SP. SP carried out a line test and could find no fault. SP arranged for an engineer's visit. C was charged for the visit and complained that C had not been informed of the charge. SP maintained that C had been informed of the charge during the telephone call and in the Terms and Conditions of service. The engineer had carried out repair work on C's property and C was liable. C complained to Otelo.

The Ombudsman accepted that C had received notice of the charge in the telephone call and in the Terms and Conditions and was therefore liable for payment. The

Ombudsman however considered that there had been a number of shortfalls in the customer service provided by SP. It had failed to reply to C's complaints and had not provided promised call backs. The Ombudsman therefore required SP to provide a goodwill payment in recognition of the shortfalls.

## 15.2

C says that when a line fault was reported on 19 January C was informed that C would have to pay a charge of £200 for an engineer visit. The fault was repaired on 30 January and C received a bill for the work carried out even though this related to the Supplier's own external equipment. When C phoned querying this, it was agreed that it was the Supplier's equipment that was at fault and C's account would be credited. C was offered a goodwill gesture and a daily rate rental credit.

The Ombudsman considered that the goodwill gesture offered by the Supplier sufficiently compensated C for any shortfall in customer service

## 15.3

C experienced a fault on their landline and would like compensation. C says they used all their mobile phone credit up. C complains of poor customer service, they were promised call backs that did not happen and unanswered correspondence. SP advises C not due any compensation under T&C's also an award has already been made. SP advises letters were answered in a timely manner and call backs made then appropriate. SP acknowledges the inconvenience caused by the fault.

The Ombudsman required SP to offer an apology for any inconvenience caused by the fault on their line. Shortfalls in customer service were identified and a further award was made in recognition of this.

## 15.4

C lost the phone and internet services after an upgrade the local exchange. The service was not fully restored for some time. C made many calls to SP without success. SP did agree to credit C but the fault was not resolved. C was promised call backs, some of which did not take place. The fault was eventually resolved but C requested compensation including compensation for a loss of business and the replacement of a handset. SP denied that the issue with C's handset was SP's fault and as the account was residential no compensation could be given for the loss to C's business. C sent several letters; some of these received no response. SP did credit C's account for some time without the landline service and credited a further goodwill gesture.

The Ombudsman concluded that there had been a shortfall in customer service but agreed that SP could not compensate for the handset or the loss of business. The Ombudsman required SP to issue an apology, credit the account further as a goodwill gesture and to provide a copy of the statement.

## 17.0 Fraud

### 17.1

A third party set up a landline and broadband account with SP fraudulently using C's address. When SP discovered the fraud it suspended C's services. C employed a solicitor to find out what had happened. SP explained the situation to the solicitor, and C arranged for C's services to be transferred to another provider. C employed the solicitor to pursue a complaint against SP, and wanted SP to reimburse C for the legal fees that C incurred.

The Ombudsman was of the opinion that SP could not be blamed for the fraud that had been perpetrated. SP had given accurate information to the solicitor, but had not promptly cancelled the account, leading several demands to be sent to C. SP was therefore required to make a payment to C to recognise this. The Ombudsman could see no reason why C had needed to employ a solicitor and therefore did not require SP to reimburse C for the legal costs C had incurred.

## 19.0 Installation

### 19.1

#### DOMESTIC CUSTOMER - BROADBAND

The complainant requested a package of services from the Service Provider and when the broadband service was not provisioned the complainant contacted the Service Provider. The Service Provider provided the complainant with scheduled dates for the broadband but the service was never connected. The complainant complained and decided to transfer services to another service provider. It was then discovered that the complainant had provided an incorrect house number for the complainant's address when the order had been placed and this had been the root cause of the problem. The complainant complained to the Ombudsman.

The Ombudsman was satisfied from the evidence that the complainant was aware quite early on that the address the Service Provider had for the account was incorrect and the complainant should have taken steps to ensure that it was amended. However, there had been shortfalls in customer service by the Service Provider not identifying the problem any earlier than it did and by it not providing a response to letters of complaint the complainant had sent. The Ombudsman directed the Service Provider to make a goodwill gesture to the complainant in recognition of the inconvenience caused by these shortfalls.

## 24.0 Mis-selling

### 24.1

#### BUSINESS CUSTOMER - MIS-SELLING OF TELEPHONE SYSTEM

The complainant agreed to a visit by the Service Provider's Salesperson to discuss telecommunication requirements. During the meeting the complainant entered into a contract for a telephone system over a seven year period that involved quarterly payments. The Service Provider installed the system but some months later the complainant claimed that the complainant had been mis-led as the complainant believed the contract to be based on an annual fee and over a shorter period of time. The complainant wanted the Service Provider to cancel the contract and remove the telephone system and when the Service Provider refused to do this, the complainant complained to the Ombudsman.

Having examined the documentation in detail the Ombudsman was satisfied that the contract was over a seven year period with quarterly payments and it contained a statement that all information in the document had been fully completed and was accurate. On the basis of this sound documentary evidence the Ombudsman was satisfied that the complainant's claims about mis-selling could not be borne out. The Ombudsman decided that the Service Provider need not take any further action in the matter.

### 24.2

C agreed to a telephone service with SP which was delayed due to the application of termination fees by the original supplier. On commencing the service SP telephoned C to confirm that the Agreement was understood. The Agreement was for a fixed period of three years. C then telephoned and queried the minimum call charges which were then explained with C having sight of these during the explanation. C confirmed that these were understood. Some nine months later C telephoned for an itemised bill and then requested termination of the service. SP notified of the charges that would be raised and C stated that SP's representative had miss-sold the service. A complaint was raised stating that C was unaware of the termination fees and that SP's representative had advised that one month's notice should be given rather than three.

On review of the documents it was considered that C, who was in business and had signed the Agreement as such, should have been fully aware of its length as the signed copy clearly stated this in its title. Also C had been aware that termination fees might be applicable after the previous provider had tried to enforce them and as a long standing business person who would be familiar with the implications of signing any Agreement. The Agreement was not considered to have been miss-sold as the charges were clearly marked and an explanation had been given subsequently. C had not raised the complaint of miss-selling when the explanation was given. C was to remain responsible for the termination fees but was to be given the option of continuing the Agreement or accept the offer of a payment plan where the termination was to continue.

### 24.3

C agreed to an upgrade with SP but then complained to it that C was mis-sold, both with the tariff and the contract term. C complained to SP constantly about this and other issues and wanted to disconnect, but remained unhappy with the termination fee. Eventually, SP agreed to terminate the account without applying a termination fee, but then C wanted to transfer C's number to another provider via a Port Authorisation Code (PAC) but SP refused to provide this unless the contract was reconnected and commenced.

In this instance, from the evidence provided, the investigation was satisfied that C had agreed in full to the terms of the upgraded contract and that there was no mis-sell. However, SP had acknowledged that its Advisor had incorrectly placed the contract term as 12 months, instead of 18. Nevertheless, it was found that SP had taken a commercial decision to disconnect C's service, in line with its Terms & Conditions, as C was a constantly abusive caller. As this was a commercial decision, this remained outside of the Ombudsman's remit for investigation. In relation to the porting of C's number, it was also clear that as C's account and number had been disconnected, that number could not therefore be transferred in line with the regulator's guidelines for issuing PACs. In this instance, no further actions were required of SP.

### 24.4

C agreed to a contract with SP in-store that would enable C to make calls while C was abroad. However, C was unable to use the handset abroad at all and then, when C returned to the UK, C was still unable to send/receive text messages. C complained to SP that C has been mis-sold the contract and complained formally several times to SP but often received no response. C wished to cancel the contract and was advised by SP C could do this via insurance, but then when C came to do so, was unable to.

From the evidence provided for investigation, it was apparent that C's contract did allow for international use but that this was limited. As this was part of the contract it was considered reasonable for C to have been made aware of this but it was also considered reasonable for C to have advised at the point of sale that C was going abroad and that there was potential that the handset could not be used. The investigation considered that, on the balance of probabilities, it was possible that C had not been given a full explanation of the contract. The investigation also found further shortfalls in customer service and, therefore, it was proposed for SP to close the account without penalty and with a zero balance, ensure C received no further demands for payment and also provide C with an apology.

### 24.5

C took out a new package with SP for Broadband, Call Package and Line Rental. C called to cancel the package but the SP would not allow the C to cancel the Broadband package without penalty as it was past the cooling off period.

The Ombudsman considered that the C should be liable for the remainder of the Broadband contract as the C had not cancelled during the cooling off period. She required no further action from the SP.

## 35.0 Stolen/Lost

### 35.1

#### DOMESTIC CUSTOMER - NON-RECEIPT OF MOBILE PHONE.

The complainant entered into a contract with the Service Provider for mobile phone services and the Service Provider dispatched a handset to the complainant. The complainant claimed that the package the Service Provider had sent did not contain the handset and the complainant asked the Service Provider to provide a replacement. The Service Provider refused to do this so the complainant complained to the Ombudsman.

In response to the complaint, the Service Provider told the Ombudsman that it was now prepared to provide the complainant with a replacement handset and to make a goodwill gesture for the inconvenience the situation had caused to the complainant. The Ombudsman commented that the offer the Service Provider proposed met the resolution the complainant wanted so the Ombudsman directed the Service Provider to maintain the proposal it had made.

## 36.0 Tariffs

### 36.1

C asked SP to place C's business account on a new tariff. SP agreed. SP failed to change the tariff. Over several months, C complained. SP eventually concluded that C would have been charged more on the new tariff than C had been charged on the existing tariff.

The Ombudsman was concerned that SP had not recalculated C's account accurately, as it appeared international and mobile calls that should have been part of the inclusive minutes on the account had not been taken into account. SP was required to carry out a further recalculation taking these calls into account, and to provide full details of the recalculation to C. If SP discovered C had been disadvantaged as a result of SP not changing the tariff, SP was required to refund the difference between the tariff charges. SP was furthermore required to apply a credit to C's account as a goodwill gesture to recognise the inconvenience C was caused because of the delays in SP investigating C's complaint.

## 36.2

C agreed to an upgrade with SP via a retail store and then used C's account on the basis that this had been processed, as C had been advised. However, C then received a large bill and found that the tariff had not been increased as expected. C complained to SP and was then advised the tariff no longer existed. C made a formal written complaint to SP, but received no response.

For investigation, SP acknowledged its errors and also that C had received shortfalls in customer service in this instance. The investigation welcomed these admissions from SP and it was proposed for it to apply a credit to cover the difference in charges C had incurred for the two tariffs, provide C with a direct goodwill payment and apology, and provide C with a PAC ad also ensure the account was disconnected without penalty.

## 36.3

C requested to downgrade the monthly tariff on their mobile contract. C said that it had recently introduced a standard charge for the change, which C refused to pay, claiming that this represented a unilateral change to the contract. C's partner was then allowed to change the monthly tariff without charge. T explained that it had amended its charging policy and now allowed changes within certain limits to be made free-of-charge. C said that T had claimed to have sent a written reply to a letter when it had not done so, had failed to respond in writing when requested and that T's charges were unclear. C had asked to cancel the contract but T had said that an early termination fee would be applied. As resolution, C wanted the contract to be cancelled without penalty and an apology for the stress caused.

The Ombudsman required T to apologise to C for saying that a written response had been sent when there was no evidence that one had been. However, did not agree that T's decision to standardise its charge for tariff changes constituted a change to the contractual position which had always existed so decided that, if C wanted to cancel the contract, T was justified in asking for an early termination fee to be paid

## 38.0 Terms and Conditions of Contract

### 38.1

C signed up for an 18 month and then decided to terminate the account. C maintains that SP had failed to advise C that the contract could be terminated after nine months. SP processed the termination incorrectly and had to set up a new account for C. C wrote to SP and it failed to respond on two occasions. SP maintains that it does not offer contract with a nine month duration disputed rental charges believing that the contract

The Ombudsman required SP to reissue its' letter and make a goodwill payment to be applied to C's account.

