



# Analysis of Fixed-Line Mis-selling Complaints

Final Report (public version)

August 2012

Ofcom



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# Issue and revision record

Revision	Date	Originator	Checker	Approver	Description
1.0	25 <sup>th</sup> June 2012	Ed Siegle			First Draft
2.0	16 <sup>th</sup> July 2012	Ed Siegle			Second Draft
2.3	18 <sup>th</sup> July 2012	Ed Siegle	Annoula Peppas	Andrew Doyle	Draft Final Report
2.4	19 <sup>th</sup> July 2012	Ed Siegle	Annoula Peppas	Andrew Doyle	Draft Final Report (issued)
2.5	6 <sup>th</sup> August 2012	Ed Siegle	Annoula Peppas	Andrew Thomas	Final Report

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## Executive Summary

Ofcom first introduced rules to protect consumers from mis-selling in May 2005 and updated these in March 2010 with the introduction of GC24. Whilst there has since been some reduction in complaints received by Ofcom's Consumer Contact Team (CCT), Ofcom still receives approximately 700 complaints a month.

Monitoring and enforcement thus remain a high priority – and therefore ensuring the accuracy of the complaints data received by CCT. To benchmark performance, Ofcom produces a monthly metric on the ratio of mis-selling complaints to successful set-ups for large Communications Providers (CPs).

However, some parties have questioned the validity of this metric given several characteristics of mis-selling statistics, arguing that:

- The validity of complaint numbers is undermined by containing Erroneous Line Transfers (ELTs) and cases of Buyer's Remorse – factors beyond CPs' control
- The validity of the metric is undermined by using 'set-ups' as the denominator when many mis-selling complaints involve sales to existing customers

Ofcom therefore asked Mott MacDonald to conduct a detailed analysis of one month's mis-selling data (584 complaints), with three main objectives:

- To determine the accuracy of Ofcom's fixed-line mis-selling complaints data, and to identify any deficiencies in the current system of recording complaints.
- To provide recommendations on how accuracy could be improved to ensure greater robustness as well as how best to monitor the integrity of the data.
- To provide a recommendation on the most suitable metric(s) to be used in order to allow for appropriate and meaningful comparisons to be made between CPs.

Mott MacDonald found that CCT data was accurate at an aggregate level – with near 100% success in distinguishing cases of mis-selling from other types of complaint and in identifying the correct CP. However, in 14% of cases MM did not agree with the subcategory chosen by CCT and in 41% cases found inaccuracies in the identification of whether the complaint concerned a new or existing customer of the CP. Only sales to new customers technically breach GC24.

This meant a difference in the categorisations made by CCT and MM with regard to CCT's own data (without considering data received from CPs):

- CCT found that slamming and mis-selling accounted for 86% of cases, with 43% involving new customers, and that 14% of cases were ELTs
- MM found slamming and mis-selling in 80% of cases, with 62% to new customers, and that 18% of cases were ELTs.

MM then reviewed data provided by CPs to explain each case. Using this data, MM was able to produce a revised final verdict on each case.

It should be noted, however, that only 68% of this data was of sufficient quality to aid analysis. This raised a question regarding how to produce a final verdict on a case in a situation where CP data was insufficient or absent. In such situations MM assumed that, in the absence of adequate response or justification from the CP, the consumer's complaint was valid.

Based on all data MM found that mis-selling and slamming accounted for 53% of cases, with 40% involving new customers, and that 27% of cases were ELTs.

Significantly, MM also discovered significant variation by CP in these factors.

## Conclusions

MM concluded that whilst the overall accuracy level of CCT data is high, improvements are needed to ensure increased identification of ELTs and to distinguish between mis-sales to new and existing customers. MM has made a number of recommendations to encourage higher prioritisation, better definition, and a more systematic approach in gathering key data.

There will always be a gap between the proportion of cases categorised by CCT as forms of mis-selling and that revealed with the benefit of CP data. However, MM believes that – if improvements to accuracy are made – this gap is narrow enough to make presentation of mis-selling metrics based on CCT data valid. The level of cases encountered for which the burden of responsibility lay with the customer – including buyer's remorse – was around 10% for most major CPs, an acceptable margin of error.

Indeed, MM believes that it is important to continue to present a mis-selling metric based on total complaint volumes reported to CCT. Whilst this means reporting on mis-sales to new and existing customers and ELTs together, it should be noted that all these forms of behaviour are avoidable to some degree, including ELTs, and that all of them are highly stressful and inconvenient to consumers.

However, MM does believe changes should be made to the formulation of metrics. Firstly, MM believes that a better baseline denominator should be used to show this overall volume of complaints, since 'set-ups' is not appropriate. Secondly, MM

believes that Ofcom should present individual metrics on mis-sales to new customers, mis-sales to existing customers, and ELTs. This increase in granularity will enable Ofcom to display more accurately the variations encountered in these factors by CP, and should thus assist Ofcom to target its monitoring and enforcement activities on the practices prevalent at each CP.

# 1. Introduction

## 1.1 Background

Access to good quality complaints data is essential for much of Ofcom's work. Its reliance on complaints data has increased over the years and the complaints data it collects is used to support its functions in a variety of ways. These include:

- Monitoring trends/performance over time; analysing data for early warning of new issues; and analysis to identify priority targets for enforcement action;
- To help develop policy work based on trends and emerging issues;
- Sharing its data with Communications Providers (CPs) to assist them with their compliance activities and to improve their performance levels; and
- The publication of CP-specific complaints data and trends in complaints about telecoms issues.

The mis-selling of fixed-line telecoms services is one area in particular in which access to accurate complaints data has been important to Ofcom's work. Ofcom first introduced rules to protect consumers from mis-selling/slamming in May 2005 and updated these in March 2010 with the introduction of GC24. Since 2005 Ofcom has actively monitored allegations of mis-selling and slamming – including through the analysis of complaints data received by its own Consumer Contact Team (CCT).

Whilst there has been some reduction in complaints since the introduction of GC24, Ofcom still receives approximately 700 mis-selling/slamming complaints a month. Monitoring and enforcement in this area thus remains a high priority – and therefore ensuring the accuracy of the complaints data at Ofcom's disposal, and the possession of a detailed understanding of the composition and drivers of complaints, are paramount.

## 1.2 Context

Complaints reported to Ofcom are initially dealt with by CCT. The framework of categories and the procedures used by CCT to categorise complaints have been refined considerably over the past 2-3 years, to the point where improvements in accuracy have made it possible for Ofcom to publish supplier-specific data on telecoms complaints.

However, given the framework of categories in place and the publishing of data against CPs are both relatively new, and that CP selling and transfer techniques evolve, it is not surprising that CPs should seek to question – legitimately or not – the make-up and accuracy of Ofcom's

complaints data. There are potentially a number of factors which could serve as mitigation against a CP being named as the “guilty” party in a given case. For example, rather than having been slammed, a consumer’s service could have been transferred as a result of a process generated transfer, such as an Erroneous Landline Transfer (ELT). Whilst Ofcom has recently introduced measures to enable CCT advisors to more easily identify ELT complaints, it is not certain that it is capturing all ELT complaints or that cases have been categorised as ELTs correctly.

CPs have also expressed concern over Buyer’s Remorse complaints (in which there has been a change of mind or “confusion” on the part of the customer regarding agreement to transfer, for example), arguing they are beyond their control and therefore not addressable. Whilst Ofcom sympathises with this viewpoint, it is also possible that CPs are taking too broad a view of “Buyer’s Remorse” – and that the CP may in fact bear some responsibility for the situation, in some cases, as a result of a lack of clarity during the process of sale. This would mean such cases were addressable by CPs, in terms of improving their sales practices.

As Ofcom also indicates, concerns have been raised by CPs that metrics used to measure levels of mis-selling may sometimes create a distorted picture of reality. For example, there is seen to be an inconsistency in the treatment of mis-selling to existing customers.

However, Mott MacDonald’s past experience of analysis of complaints and mis-selling data for Ofcom indicates that the degree of CP objection to such inconsistencies does not always reflect the degree of inaccuracy in the data<sup>1</sup>. Whilst the factors cited by CPs may have an impact on the accuracy and validity of the data it is vital to establish the order of magnitude of this impact on the metrics and assumptions derived, and whether it can be said to be material or incidental. Two fundamental questions require an answer:

- Are there aspects of the composition of fixed-line mis-selling complaints data which dilute its validity – for example because a significant proportion of the complaints have in fact been generated by factors beyond the CPs’ control?
- Are there aspects of the way in which fixed-line mis-selling complaints data is reported which unfairly represent the true

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<sup>1</sup> To give an example, CPs and other UK institutions have objected in the past that statistics on Silent Calls were not representative – claiming much of the responsibility for Silent Calls lay with overseas companies. Mott MacDonald previously conducted an analysis of Ofcom’s Silent Calls data and found this not to be the case. UK companies were in fact responsible for the vast majority of Silent Calls.

responsibility of different CPs for this type of complaint – for example, because of the composition of the data (as above) or because the metrics do not compare like for like?

As a result of such considerations, Ofcom has commissioned this study to analyse consumer complaints which have been logged as allegations of fixed line mis-selling. Ofcom wishes to test the robustness of the data, and to gain a more precise understanding of what the data reveals about consumers' various experiences in relation to fixed line sales and marketing, and what it does and does not reveal about the behaviour and practice of different CPs. This will enable Ofcom to have greater confidence in the data in its possession and to take appropriate steps to improve that data, where possible. This in turn will enable Ofcom to report fairly responsibly for mis-selling (if indeed it is not already doing so).

### 1.3 Ofcom's Objectives

Ofcom asked Mott MacDonald (MM) to analyse a sample of data relating to complaints logged by CCT as cases of fixed-line mis-selling in November 2011 and April 2012.

It wished to identify trends, insights and key findings regarding what the data reveals about consumers' experience of the sales and marketing of fixed-line telecoms, and CPs' behaviour and practices in this regard. This was to be achieved through an examination of case data from several perspectives, including:

- At an industry-aggregate level (i.e. across all cases)
- At the individual CP level
- By complaint category
- By other appropriate criteria within and across these groupings.

In so doing, Ofcom identified three specific objectives for the project:

1. To identify the accuracy of Ofcom's fixed-line mis-selling complaints as currently categorised by the CCT, and to identify any deficiencies that might exist within the current system of capturing and recording these complaints.
2. To provide recommendations on how the accuracy of the data could be improved to ensure greater robustness as well as how best to monitor the integrity of the data on an ongoing basis.
3. To provide a recommendation on the most suitable metric(s) to be used in order to allow for appropriate and meaningful comparisons to be made between CPs based on relevant sales activity.

*Please note: Ofcom will be considering Mott MacDonald's recommendations for improving data accuracy and the implications for its metrics in due course. We intend to communicate these findings and our subsequent conclusions through a process of engagement with industry. For the moment the sections of this report relating to those recommendations have therefore been removed.*

The intention was that the results of this work would assist Ofcom in determining how it can rely on the data to identify more precisely:

1. The root causes of issues which are currently logged as fixed-line mis-selling complaints. For example, the likely causes of complaints could include:
  - a. Consumers incorrectly reporting issues (e.g. buyer's remorse).
  - b. Consumer confusion arising from poor sales practices.
  - c. Consumer confusion due to product complexity, or consumer vulnerability.
  - d. Deliberate mis-sales/slamming by CPs.
  - e. Genuine advisor error.
  - f. Erroneous Landline Transfers ('ELTs') – which are systems/process-based errors and are outside the CP's control.
2. The drivers and levels of the different forms of consumer harm experienced.
3. The CPs responsible for the various types of harm.
4. The proportion of complaints relating to transfers between CPs, and those relating to sales to CPs' existing customers.

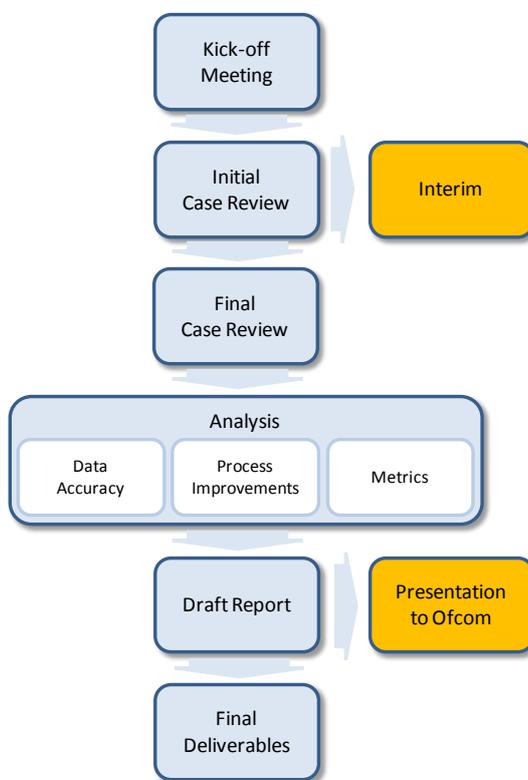
During the course of the assignment itself, as Mott MacDonald gave feedback on initial findings, Ofcom expressed an interest in insights on a number of related topics, such as:

- The number of cases categorised by CCT as "No Contact" slams which after review by MM turn out to have a different final categorisation and why
- The prevalence of different types of behaviour by the Losing Provider (LP) which may also be having a detrimental impact on consumers - ie in addition to the undesirable activities of the Gaining Provider (GP) which is the usual root of a mis-selling complaint.
- The circumstances surrounding different types of ELT (e.g. in a home move situation versus an error during a switch of provider).

### 1.4 Mott MacDonald's Approach

The overall project methodology used by Mott MacDonald to analyse these cases is shown in Figure 1.1:

Figure 1.1: Mott MacDonald's methodology



Armed with data from CCT and the CPs, Mott MacDonald created a spreadsheet which it used to record a range of information, comments and verdicts on each case. This spreadsheet served as the foundation for all of the main analyses conducted on the project, although additional information on metrics was analysed separately.

In conducting its analysis of case data, MM employed an analytical framework comprising several layers of analysis. This approach is summarised in Table 1.1:

Table 1.1: Key steps in MM's analysis

Step	Description	Section in report
Review of CCT interpretation of data	<ul style="list-style-type: none"> <li>Review of pure data from CCT, without any re-categorisation</li> </ul>	Section 2
MM Analysis of existing CCT data	<ul style="list-style-type: none"> <li>MM's own verdicts on CCT data, including producing its own categorisations</li> <li>Involved re-visiting primary data provided by consumers – in form of call recordings and contents of web forms</li> </ul>	Section 3
MM analysis of all data	<ul style="list-style-type: none"> <li>Involved reviewing and analysing all data, both that from CCT and the information provided to explain cases by CPs</li> </ul>	Section 4

Source: Mott MacDonald

The results of this analysis informed MM's recommendations regarding process improvements and metrics.

### 1.5 Composition of the data set

The foundation of the analysis was a review of data regarding complaints about mis-selling logged by CCT in November 2011 and April 2012.

Initially, Ofcom provided data on 624 cases from November 2011 alone – comprising call recordings and system notes of the original complaint made to CCT, and materials from the CP named in that complaint intended to explain or clarify the transaction from the CP's point of view.

However, in a few cases the data provided by particular CPs was insufficient to support a proper analysis of the complaints against them – partly because the CPs claimed the issues behind the complaints were more than six months old, meaning they no longer retained call recordings. As a result, Ofcom made a further request for data relating to more recent mis-selling complaints from April 2012 from 3 CPs. In its overall analysis, MM has therefore set aside the November cases from these three providers and substituted cases from April.

The resulting data set thus contained one month's complaints data for all CPs, comprising 586 cases. Two further cases were excluded as they were found to be exact duplicates (with the same Ofcom reference numbers). This produced a final data set for analysis of 584 cases.

488 of the 584 cases analysed were logged by CCT as a result of a phone call from a consumer. A further 95 complaints were fielded by web form, and 1 as the result of a letter.

Ofcom provided a spreadsheet of data extracted from its Siebel system, which included a range of information on each case, including:

- The name address and CLI of the complainant
- CP complained aboutThe categorisation made by CCT of the case (according to the framework shown in Appendix A)
- The “closure” code – indicating whether the case concerned a new or existing customer of the mis-selling CP, or ‘neither’ if the case was an ELT
- The details of Unknown Service Provider (USP) requests carried out by CCT
- Whether the case concerned an individual, small business or business
- The service type involved (e.g. whether it concerned WLR alone or a bundled service of fixed and broadband)
- The case notes logged by CCT.

In addition Ofcom provided 455 call recordings of calls to CCT by complainants – in relation to the 488 cases fielded by telephone (i.e. 33 call recordings were not available).

## 2. Composition of original CCT Data

### 2.1 Introduction

The first step in Mott MacDonald's analysis involved reviewing the original data from CCT on fixed-line mis-selling complaints, in order to understand its composition. At this stage Mott MacDonald did not look to produce its own verdicts on cases (for example to see if MM agreed with the CCT categorisation). The aim was just to analyse the make-up of the data in the original form held by CCT.

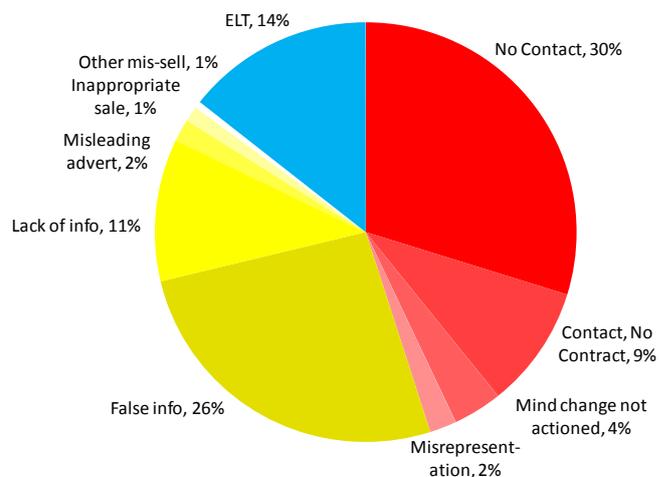
### 2.2 The number of cases by CP

Mott MacDonald analysed 584 cases in total. 7 CPs were responsible for 429 cases (73%), each accounting for more than 20 complaints. At the other end of the scale 53 CPs accounted for 3 cases or fewer, of which 39 CPs had a single complaint logged against them. 32 cases had been categorised as "OCCMiscSP" because it was not possible for CCT to identify the CP involved.

### 2.3 The percentage of cases by subcategory

Each case logged as a complaint by CCT is categorised according to Ofcom's 3 level framework (shown in Appendix A). A breakdown of the original categorisations made by CCT is shown Figure 2.3.

Figure 2.1: CCT original categorisation – by subcategory (584 cases)



Source: Mott MacDonald

*The subcategories coloured in shades of red, represent the Level 3 categories under the Level 2 heading of Slamming.*

The subcategories coloured in shades of yellow, represent the Level 3 categories under the Level 2 heading of Mis-selling.

The blue “ELT” segment refers the Level 3 subcategory of Erroneous Transfer, under the Level 2 heading of Slamming.

Table 2.1: Number of cases by subcategory – CCT original verdict on 584 cases

Level 1 Category	Level 2 Category	Level 3 Category	No. of Cases
Sales / Changing Provider	Slamming	No contact	174
Sales / Changing Provider	Slamming	Contact, but no contract	55
Sales / Changing Provider	Slamming	Mind change not actioned	22
Sales / Changing Provider	Slamming	Misrepresentation	12
Sales / Changing Provider	Mis-selling	False/misleading information	153
Sales / Changing Provider	Mis-selling	Insufficient / Lack of Information	64
Sales / Changing Provider	Mis-selling	Misleading advertisement	10
Sales / Changing Provider	Mis-selling	Inappropriate sale	7
Sales / Changing Provider	Product Mis-selling	Equipment Systems	1
Sales / Changing Provider	Other (Sales)	Other (Sales)	2
Sales / Changing Provider	Slamming	Erroneous Transfer (ELT)	84
<b>TOTAL</b>			<b>584</b>

Source: Mott MacDonald

## 2.4 Analysis of ELTs identified by CCT

As indicated above, CCT originally identified 84 ELTs. 63 of the 84 (75%) had been categorised as “actual” transfers (at Level 2 of Ofcom’s categorisation framework), and 21 of them (25%) as “attempts”.

There were two main means by which CCT had identified the ELTs:

- From information provided by the consumer e.g. stating that they had received a welcome letter addressed to another person
- Via a USP request.

The former was the case in 48 of the 84 cases categorised as ELTs. In these cases CCT had recorded information in its case notes from which one could infer the reason for the ELT category choice. The reasons encountered are shown in Table 2.2.

Table 2.2: ELT indicators – CCT original verdicts

ELT indicator	Definition
Change of CLI	The consumer had experienced an unexpected

ELT indicator	Definition
	change of phone number
Address confusion	The consumer had discovered that a neighbour's order for a service had triggered their line to be switched instead
Different name	The consumer had received correspondence regarding a transfer in a different name
CP Confession	The slamming CP had confessed to an ELT
Own Line confusion	The consumer had multiple lines and the wrong line had been switched by one of their own CPs.

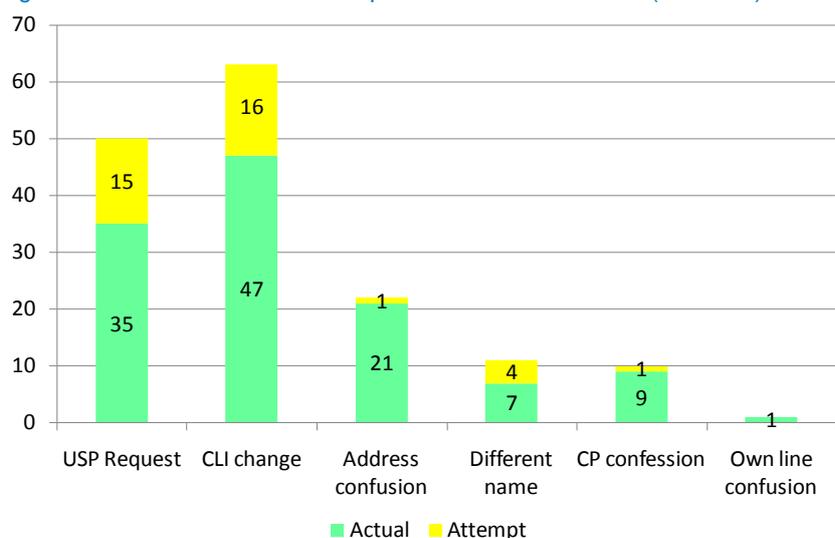
Source: Mott MacDonald

In 33 cases the ELT had been established by USP request – with the CCT notes not indicating the customer had provided any information to suggest the slam might be the result of an ELT. In a few cases there were both indicators in the CCT notes and the benefit of a USP request.

In 3 cases it was unclear why the case had been categorised as an ELT (though it may be that the evidence was provided by the consumer on the call, without this being recorded by CCT in the case notes).

The occurrence of each means of identification is shown in Figure 2.4., with the number split to highlight the means used for both attempted and actual erroneous transfers.

Figure 2.2: Indicators of ELTs captured in CCT case notes (84 cases)



Source: Mott MacDonald

The numbers in Figure 2.4 add up to more than 84 because in some cases 2 or 3 of the indicators had been recorded against a single case (eg a consumer's CLI had changed owing to a mix-up with a neighbour's order, for which the CP concerned had admitted responsibility). It should also be noted that cases identified by USP request were also cases in which CLI change was the factor indicating an ELT (so the USP request numbers are also effectively included in the 'CLI change' numbers – although in a number of cases the number change was apparent from both the USP request and the CCT notes on the consumer's evidence).

It is notable that a USP request was the principal means used to identify *attempted* ELTs. In an 'attempt' case the consumer's service has not yet been transferred, and they are therefore less likely to be aware of a number change (as they have yet to lose their CLI). But performing a USP request to identify the party trying to take the consumer's service can reveal this is in the pipeline. For 16 of the attempted ELTs number change was the indicator of the ELT and in 15 of these 16 cases this fact had been identified by a USP request.

As a final comment, it is important to be aware that whilst CCT advisors do seek to gather information to categorise ELTs correctly, they do not always employ a consistent set of questions to do so – suggesting that currently the approach to gathering this data has not been fully prioritised or formalised. The approach and questions asked vary by case and by advisor. The experience of an agent is likely to be a factor in their ability to recognise an ELT and could be harnessed in providing a set of questions that would guide less experienced agents. A certain amount of information is being volunteered by consumers

Mott MacDonald believes that formalising the approach to gathering ELT data would enable more ELTs, and their drivers, to be identified. MM's recommendations on this issue can be found in section 6.

## 2.5 Cases concerning New versus Existing customers

As well as categorising the type of slamming and mis-selling that has occurred, CCT also logs a "Closure" code indicating whether the complaint concerns a 'New' or 'Existing' customer – or 'Neither' in the event that the case is an ELT. According to Ofcom's internal guidance, the definition of each is given in Table 2.3:

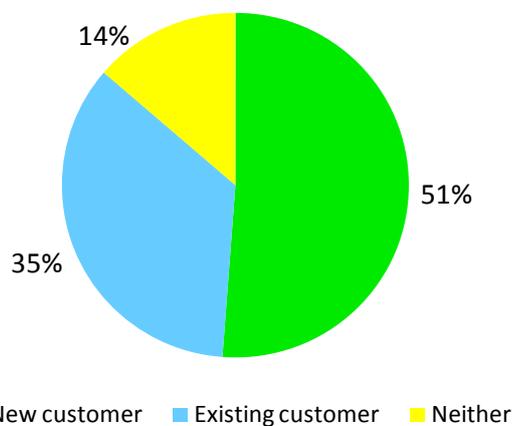
Table 2.3: Ofcom internal guidance on Closure code selection

Closure code	Definition
New customer	All complaints that involve transfers between CPs should be logged as “New customer” i.e. Slamming (attempted or actual) and mis-selling involving a transfer from one CP to another
Existing customer	All complaints about sales that <b>do not</b> involve transfers between CPs should be logged as “Existing Customer” i.e. Slamming (attempted and actual) and mis-selling involving an upgrade/tariff change with existing SP
Neither	All complaints about Erroneous Transfers should be logged as “Neither”

Source: Ofcom “Telecoms Closure Code Guidance”

The breakdown of the original closure codes given to the 584 cases by CCT is shown in Figure 2.5.

Figure 2.3: % of cases involving sales to New , Existing or Neither (ELT)



Source: Mott MacDonald

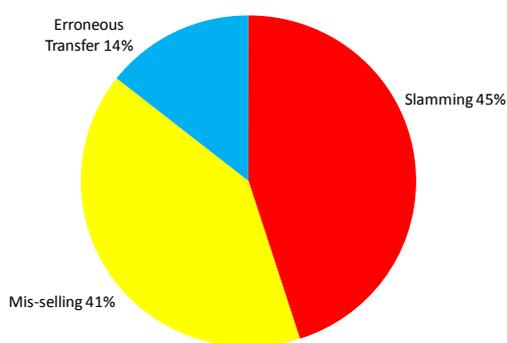
The identification of the correct Closure code – and type of customer – is significant because only slamming and mis-selling to New customers is in breach of GC24 (although that doesn’t mean mis-selling to existing customers is any more acceptable and if this is an increasing trend perhaps it warrants further investigation).

## 2.6 Slamming and Mis-selling specifically to ‘New’ customers

As mentioned above, slamming and mis-selling to new customers is specifically in breach of GC24. By cross-matching the slamming and mis-selling cases identified with those cases logged as New, Existing or Neither, one can therefore identify the cases which breach GC24 in this way.

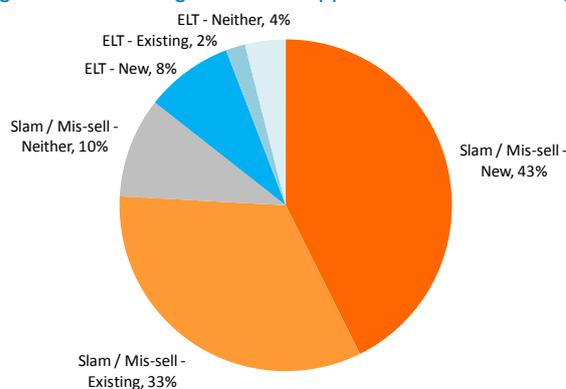
Figure 2.6 below gives a high level view of cases as categorised by CCT, showing that 86% of cases overall were examples of slamming and mis-selling, with 14% of cases ELTs<sup>2</sup>. Alongside it Figure 2.7 maps this high level view to a consideration of the logging made regarding New, Existing and Neither.

Figure 2.4: Overview of original CCT categorisation



Source: Mott MacDonald

Figure 2.5: Categorisation mapped to New vs Existing



Source: Mott MacDonald

Several things are apparent from an examination of Figure 2.7.

Firstly, judging from CCT’s original data alone, 43% of cases appear to correspond to slamming and mis-selling to new customers, and therefore to be in breach of GC24 on these grounds.

However, 10% of cases have been given the closure code ‘Neither’ despite being slamming and mis-selling cases (the grey segment). ‘Neither’ should only be used for ELT cases. It is possible that some of these cases could also involve slamming or mis-selling to new customers.

Moreover, the ‘New’ and ‘Existing’ closure codes have been used for ELTs in 12% of cases – when ‘Neither’ should have been selected. Whilst this does not have any direct impact on anything being measured it nevertheless reflects a lack of consistency in the use of the closure codes.

<sup>2</sup> If we exclude 107 attempted slams and 21 attempted erroneous transfers, so that only actual slams and mis-selling cases are included, 14% of the 456 remaining cases are ELTs (the same percentage), 34% slamming and 52% mis-selling.

## 3. MM Analysis of CCT's original data

### 3.1 Introduction

Having examined the original data and verdicts produced by CCT, the next step in MM's analysis involved reaching its own verdicts on the CCT case data. This involved reviewing the primary data from consumers in the form of call recordings and complaints submitted by web form.

The objective of this step in the analysis was to give an opinion on the level of accuracy of CCT's verdicts – as well as seeking to identify patterns with regard to factors not formally logged by CCT (for example concerning the behaviour of the Losing Provider).

It should be noted that MM's analysis in this section is still based on a review of the data held by CCT alone – in other words it is conducted without consideration of data from the CPs (a perspective considered in subsequent sections). In the normal course of their duties, Ofcom and CCT do not have CP data on complaints at their disposal. It is important to understand, therefore, the accuracy of the data which CCT does routinely gather, in order to identify what this data could, if optimised, tell us about mis-selling.

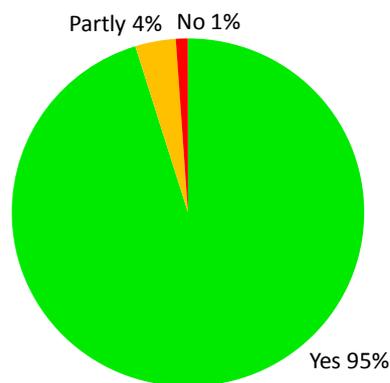
### 3.2 The accuracy of CCT verdicts

#### CCT case notes

Before looking at the accuracy of the decisions made by CCT, it is interesting to look at the accuracy of the case notes logged by CCT advisors. The possession of accurate notes is not only a good sign that CCT advisors have understood a case, but the case notes themselves also serve as important repository of information for any future analyses Ofcom may wish to conduct.

As mentioned above, 488 of the 584 cases analysed were fielded by telephone by CCT, against which Ofcom provided 455 call recordings. For these 455 cases, Mott MacDonald was therefore able to listen to a call recording and assess the accuracy of CCT's notes. As shown in Figure 3.1, Mott MacDonald found that in 95% of cases these notes were accurate. This is a good result and provides confidence in CCTs' complaints capture.

Figure 3.1: Were CCT case notes accurate? (455 cases with call recordings)



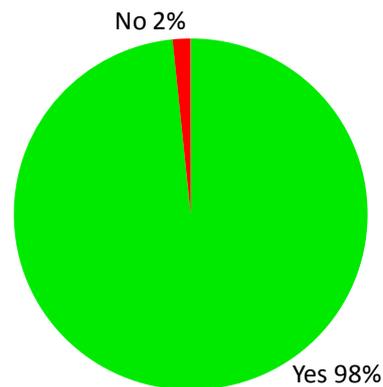
Source: Mott MacDonald

In only 5 cases did Mott MacDonald feel that the case notes were inaccurate, because important details had been missed which directly affected the categorisation chosen. In a further 17 cases Mott MacDonald felt the notes were a little brief or that more information could have been logged which might have enabled a more accurate categorisation decision to have been reached.

### 3.2.1 Identification of the correct CP

Mott MacDonald also examined whether CCT advisors had logged the correct CP against the case, for those 455 complaints for which a call recording existed. As indicated in Figure 3.2 below, Mott MacDonald also found a very high level of accuracy in this respect.

Figure 3.2: Did CCT identify the correct CP? (455 cases with call recordings)



Source: Mott MacDonald

There were only 8 cases in which Mott MacDonald found that the incorrect name had been logged – and 7 of those were cases in which “OCCMiscSp” had been logged when it was actually possible to identify the CP. In all 7 instances the identity of the CP had been revealed by Unknown Service Provider (USP) request, but the identity of the CP had not been updated by CCT. In one other case a complaint had been wrongly logged against a CP.

Regarding the cases which were correctly categorised as OCCMiscSP, it is difficult to know what more CCT advisors could have done to identify the CP.

In two of these cases the customer was very confused about the situation they were in and who was to blame. It is possible further questioning might have helped, but there will inevitably be a very small number of such cases in which it really isn't possible to tell which CP is the subject of the complaint.

15 of the remaining OCCMiscSP cases were No Contact slams and 2 of them ELTs – all cases in which the consumer had no idea which CP was behind the solicited transfer. In all these cases Ofcom had carried out a USP request which had not revealed the identity of the CP. In many cases this was because the CLI was one which wasn't on the BT network, and so Openreach had no visibility of the number. If Ofcom were able to seek information in these cases from the right wholesale network provider it could potentially reduce the number of OCCMiscSP cases.

3.2.2 Complaint versus query

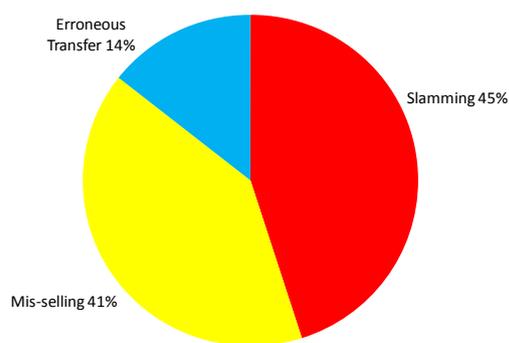
The level of accuracy in discerning whether a complaint should be logged as a complaint or a query was very high – with only a single case logged as a complaint when the consumer made clear it was only a query, meaning that the level of accuracy was close to 100%.

3.3 The accuracy of CCT complaint categorisation

Mott MacDonald reviewed the call recording or web form information for each of the 584 cases in order to reach its own verdict on the complaint. As part of this exercise, MM selected a category (at levels 1, 2 and 3) from Ofcom’s framework of Telecoms categories (see Appendix A).

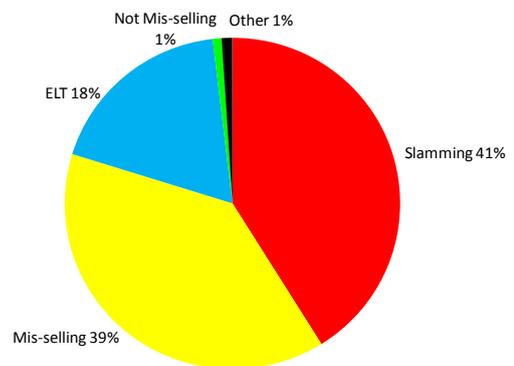
The impact of the differences in verdict on the overall categories of slamming, mis-selling and ELT, can be seen in Figure 3.3 (CCT’s original verdict) and Figure 3.4 (MM’s revised verdict).

Figure 3.3: CCT original categorisation (584 cases)



Source: Mott MacDonald

Figure 3.4: MM's categorisation (584 cases)<sup>3</sup>



Source: Mott MacDonald

It should be noted that in only 5 cases did Mott MacDonald believe that a complaint should not have been categorised at all as Slamming or Mis-selling, an accuracy level of close to 100% (2 of the 5 cases concerned “Charges” and the other 3 “Service” complaints).

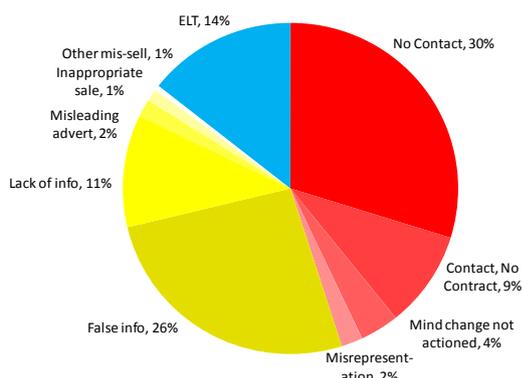
<sup>3</sup> If we exclude 104 attempted slams and 26 attempted erroneous transfers, so that only actual slams and mis-selling cases are included, 18% of the 454 remaining cases are ELTs (the same percentage), 30% slamming and 50% mis-selling.

As can be seen from a comparison of the pie-charts, the overall differences in the verdicts produced by CCT and MM were relatively minor. However, there were 83 cases (14% of the 584) in which MM felt an alternative slamming or mis-selling subcategory to that selected by CCT would have been preferable to the one selected by CCT.

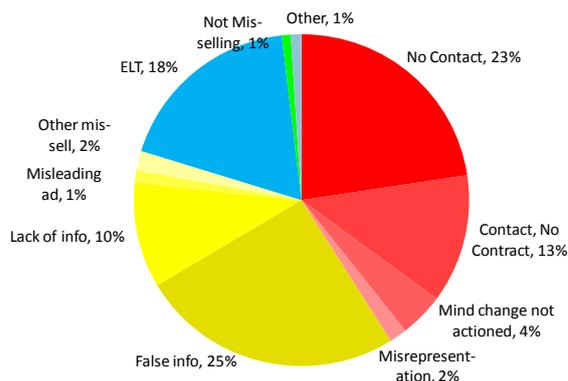
In order to illustrate where the differences lay, Figure 3.5 and Figure 3.6 break down the overall categories shown above into the underlying subcategories selected by CCT and MM:

Figure 3.5: CCT Original categorisation at Level 3

Figure 3.6: MM Categorisation at Level 3



Source: Mott MacDonald



Source: Mott MacDonald

Whilst the overall pattern of subcategories is similar, the differences did have an impact on some key subcategories.

- CCT's original categorisation placed the percentage of No Contact slams at 30%; MM's view put the percentage at 23%.
- ELTs made up 14% of cases in the original breakdown, versus 18% in MM's revised version.

Some of the key tendencies in this regard are outlined in Table 3.1.

Table 3.1: Examples of cases in which MM selected an alternative subcategory to CCT

CCT Verdict	MM Verdict	Cases	Comment
No Contact Slam	ELT	27	Slam chosen in spite of clear indicator of erroneous transfer (eg number change)
No Contact Slam	Contact, but no contract	18	Slam chosen in spite of clear evidence of contact with CP

CCT Verdict	MM Verdict	Cases	Comment
Slamming (or vice versa)	Mis-selling (or vice versa)	15	Suggests some confusion over definition of slamming versus mis-selling
Actual Slam (or vice versa)	Attempt Slam (or vice versa)	12	Suggests some confusion over whether a slam had actually lead to transfer
False Info (or vice versa)	Misleading Info (or vice versa)	8	Confusion over whether key details mis-communicated or omitted

Source: Mott MacDonald

Some of the differences identified have relatively little bearing on the validity of the metrics or an interpretation of mis-selling behaviour. For example, there is an important but subtle distinction between “False/misleading information” mis-selling (actively giving a consumer the wrong information about tariffs or contract terms) and “Lack of information” mis-selling (failing to give a consumer pertinent information – for example about contract length). However, allocating one category over the other does not impact the meaning of the data overall – both are equally undesirable forms of mis-selling.

However, logging “No contact” slams instead of ELTs or instead of “Contact, but no contract” cases is more significant because intentionally slamming where there has been no contact with the consumer is arguably the most serious form of slamming / mis-selling and is thus a form of misdemeanour Ofcom needs to track as accurately as possible.

It is also true that in some cases categorisation decisions are based on fairly fine distinctions in definition. For example, there were 5 cases originally categorised as Lack of Information mis-selling cases which MM felt were really Contact but no Contract slams. In each case a consumer had signed a contract more than 2 years ago, had moved to transfer recently – believing themselves to be out of contract – and had been told that they could not leave without a hefty ETC because their contract had been extended in the interim. On the face of it these are Lack of Information cases – as the consumer should have been told about rollover when originally sold the contract. However, in each of these specific cases the CP claimed it had had contact with the customer at the more recent time of rollover and that the customer agreed to carry on with service – meaning a new 18 month contract. The customers remembered contact and discussing their account, but denied having made any new contractual agreement.

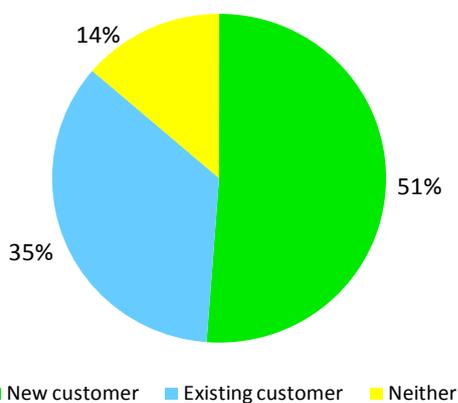
MM felt these cases were slams because the consumer was put on a new contract at this recent rollover point without permission – the transgression therefore being this recent unauthorised action, rather than the original sale. CCT itself categorised a number of cases as Contact but no contract slams on this basis.

### 3.4 New, Existing and Neither closure codes

As discussed above in section 2.5, CCT also logs a closure code indicating whether a complainant is a “New customer” or “Existing Customer” of the allegedly mis-selling CP – or logs “Neither” if the case is an ELT.

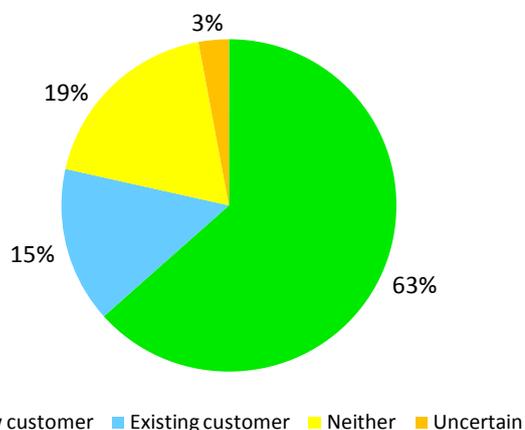
A breakdown of the closure codes chosen by CCT is given in Figure 3.7 with MM’s own selection shown in Figure 3.8.

Figure 3.7: CCT original verdict (584 Cases)



Source: Mott MacDonald

Figure 3.8: MM verdict (584 Cases)



Source: Mott MacDonald

The differences between the breakdowns are marked. Mott MacDonald identified 12% more ‘New’ cases than CCT, 5% more ‘Neither’ cases, and 20% fewer ‘Existing’ cases.

However, it should also be noted that there was not a complete overlap in the actual cases MM did agree were New, Existing, or Neither – meaning that the differences of opinion are in fact greater than indicated by the pie charts. MM agreed with the categorisation made by CCT in 56% of cases, but in 41% of cases (238 complaints) MM thought that the CCT selection was incorrect (with 3% of cases uncertain).

There were 3 main drivers of the divergence:

**1. Difficulty in changing classification from New to Neither after a USP request has revealed that a slam is in fact an ELT.**

84 of the cases MM believes were wrongly logged should have been classified as Neither. Instead 69 of them had been logged as New and 15 of them as Existing.

Notably, 61 of the 84 cases had been categorised by CCT as ELTs as a result of a USP request, which had caused the case to be re-categorised as an ELT, having appeared to be a slam. In this situation Mott MacDonald understands that it is difficult for CCT to change the classification of the case to Neither within Siebel, meaning that cases re-categorised as ELTs often retain the original classification given when it appeared they were slams. The discrepancy is thus the result of a process issue rather than an error of judgement by CCT.

The remaining 23 cases which MM believes should have been classified as 'Neither' were cases which had been given a different categorisation by CCT (ie they had been categorised as No Contact slams, for example) – so it was logical that they hadn't been classed as 'Neither'.

**2. Confusion regarding the definition of “New” versus “Existing”**

142 of the cases MM believes were wrongly logged should have been classified as 'New'. Instead 99 of them had been logged as 'Existing'. There were a number of types of situation underlying this discrepancy, for example:

- a. 31 Cases logged as 'Existing' despite being instances of slamming, in which unauthorised *transfer* (i.e. moving to a *new* provider) was the very point of the complaint. 14 of them were 'No contact' slams.
- b. 41 cases logged as 'False/misleading information' which MM believes should have been classified as 'New'. These were cases in which the dispute concerned the fact that the terms agreed *upon transfer* differed from those received. Whilst this often meant there was an ongoing dispute with their current provider, it was equally clear that those disputed terms were put in place when the customer originally transferred.

- c. Related to both type (a) and type (b) were a number of cases concerning consumers who had an existing service with the CP in question, but not the service at the heart of the complaint. For example, a consumer might have had line rental with BT and calls with TalkTalk. If BT had transferred their calls without permission this involved a transfer from TalkTalk to BT and as such they were a 'New' customer for this transaction, regardless of whether they pay BT for line rental or anything else. There were a few cases in which the consumer was a mobile customer of a CP, but had had their fixed line services slammed – for which they were not an existing customer.
- d. 24 cases were logged as 'Insufficient information' which MM believes should have been classified as New. These were cases in which the consumer discovered their original contract had automatically rolled over, or was longer than they were originally informed. The mis-selling in this situation again related to failures by the CP when the original contract had been put in place – even if this had been several years ago. This situation is distinct from cases in which the CP upgrades a consumer subsequently – ie makes a change to an existing contract – without informing them or securing their permission. The distinction is subtle but important – one referring the treatment of a new customer, however long ago they were acquired, and the other to the treatment of an existing account.
- e. A few instances of cases concerning consumers who were customers of the slamming CP for another line. Whilst they had an account with the CP in question, they were not an existing customer for the line transferred.

### 3. Inappropriate use of “Neither”

As stated above, 142 of the cases MM believes were wrongly logged should have been classified as 'New'. Instead 43 of them had been logged as 'Neither', even though they did not involve an erroneous transfer.

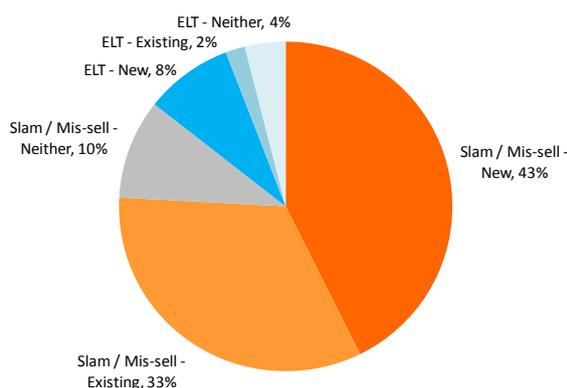
Mott MacDonald was not able to discern any clear patterns in the reason for the selection of 'Neither' in these instances, and the classification appears to have been used for a variety of slamming and mis-selling cases. It may be that CCT advisors are tempted to use this

classification when it is unclear whether the case involves a new or existing customer, which had been switched from another CP.

### 3.5 Slamming and mis-selling specifically to 'New' customers

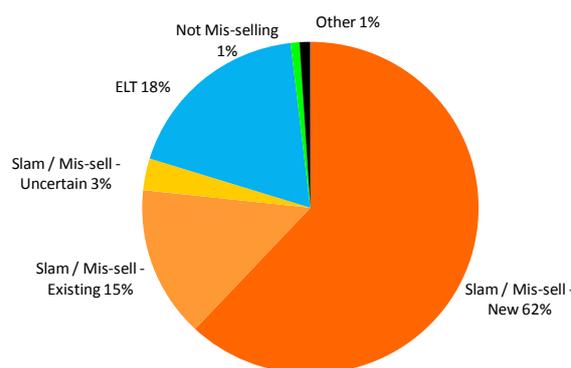
Whilst slamming and mis-selling to existing customers is equally as undesirable, only slamming and mis-selling to new customers is technically in breach of GC24. The pie-charts below map high level slamming and mis-selling categories to the New, Existing or Neither identification – with Figure 3.9 showing CCT’s original verdict and Figure 3.10 MM’s view, based on its analysis of the same CCT data .

Figure 3.9: CCT categories mapped to New and Existing



Source: Mott MacDonald

Figure 3.10: MM categories mapped to New and Existing



Source: Mott MacDonald

Whereas CCT’s original verdicts suggested 43% of slamming and mis-selling was to New customers, MM’s verdicts produce a higher rate of 63%, with slamming and mis-selling to existing customers much lower based on MM verdicts – 15% of cases rather than the original 33%.

### 3.6 ELT indicators

As mentioned above in section 2.3, CCT originally identified 84 ELTs. MM’s own analysis of CCT data subsequently revealed 107 ELTs. Ofcom was interested to understand the reasons for any such difference. These are as follows:

- MM felt that 3 of the ELTs identified by CCT were in fact slams
- It emerged that 1 of the ELT cases was a Query rather than a complaint, and so was discounted from the analysis
- MM identified an additional 27 ELTs.

The additional 27 ELTs were identified using the following information:

- In 16 of the additional 27 ELTs identified, the original CCT case notes contained a clear indicator of an ELT – such as a number change or the fact that the customer has established confusion with a neighbour’s transfer activities.
- In a further 5 cases a USP request had subsequently indicated a number change.
- In the remaining 6 cases, the call recording revealed ELT indicators but these had not been logged by CCT in its notes.

All 107 of these ELTs ought therefore to have been identifiable to CCT. In considering the factors used to identify them, MM identified 4 types of indicator which MM assumed signified a customer’s line had been taken as a result of an erroneous transfer rather than a slam.

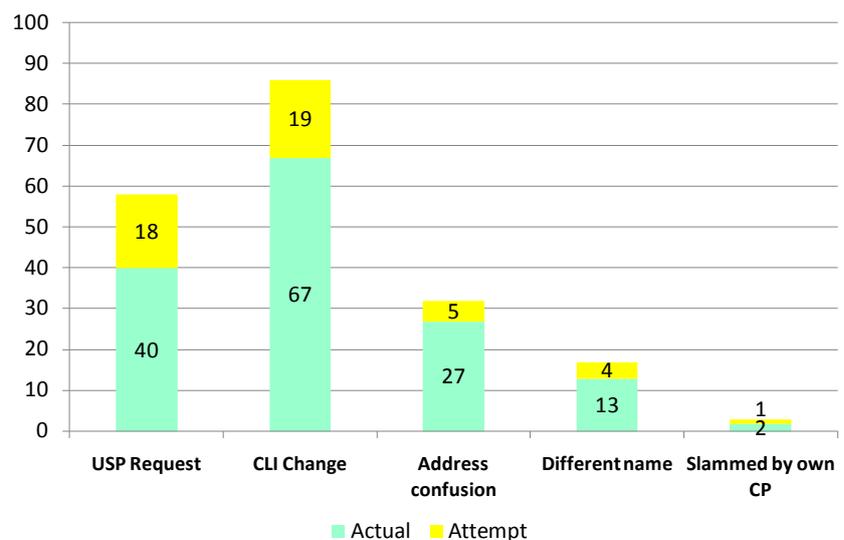
Table 3.2: Definition of ELT indicators encountered in MM data

Type of indicator	Definition
Change of CLI	Consumer’s CLI had changed as a result of transfer by unknown provider
Address Confusion	Customer aware that line taken as a result of a neighbour’s transfer activity – or a neighbour now has their number
Different name	Customer has received correspondence at their address, relating to an unauthorised transfer, in another person’s name
Slammed by own CP	Customer has discovered (or USP has revealed) that they have been slammed by their own CP

Source: Mott MacDonald

A breakdown of the frequency with which MM encountered each of these indicators is shown in Figure 3.11. It is also pertinent to note that 81 of the 107 ELTs identified by MM were actual transfers (76%) and 26 of them were attempts (24%). MM has therefore split the numbers relating to actual and attempted transfers, to distinguish between the sources of indicator for each type.

Figure 3.11: ELT indicators – MM analysis of CCT data only (108 cases)



Source: Mott MacDonald

It should be noted that the numbers add up to more than the 107 ELT cases because in some cases more than one indicator was evident.

It is again clear that the use of USP requests was important in identifying cases of attempted transfer – with 18 cases identified by USP request, all of them showing a number change had occurred.

### 3.7 Losing provider behaviour

Given the focus of the project is on mis-selling, the primary target for analysis is the behaviour of Gaining Providers (GPs), i.e. those accused of taking a consumer’s service without authorisation. However, at an early stage in the project Mott MacDonald observed that the behaviour of the Losing Provider (LPs) was aggravating the distress of slammed customers in certain situations. Whilst the GP has triggered a slam, there are also obligations on LPs<sup>4</sup>, such as:

- Informing a consumer that a transfer request has been made, in order to verify that it was authorised
- Cancelling a transfer in the event that the consumer states that it was not authorised

<sup>4</sup> A detailed analysis of such factors can be found in the Office of the Telecommunications Adjudicator’s report *Homemovers – Working Line Takeover Best Practice Guide*

- Restoring a consumer’s service to its original state if an unauthorised transfer does occur<sup>5</sup>.

Mott MacDonald identified a number of failings on the part of LPs with regard to these obligations. Before examining the tendencies identified, it should be noted that certain types of case were excluded from the review of LP behaviour, because the LP had no part to play in the situation involved. These cases included, for example:

- Mis-selling cases - where the complaint involved either mis-selling to an existing provider, or as part of an agreed transfer
- Cases categorised as Mind Change not Actioned slams – because arguably in these cases the failure of cancellation lies primarily with the GP
- Slamming cases involving unauthorised sales to existing customers – where there is no transfer between providers
- Non fixed-line mis-selling cases – where mis-selling was not involved (eg Charges cases)

This left 303 cases, 179 of which were actual slams – cases in which the unauthorised transfer was completed (including 82 ELTs) – and 124 of which were attempted slams – cases in which the slam had either been successfully cancelled or was still due to be completed. The behaviour encountered on the part of LPs regarding these cases is summarised below.

### Informing consumers about transfer requests

Regarding the 179 actual slams, the evidence revealed the following picture with regard to correspondence issued (see Table 3.3):

Table 3.3: Pattern of contact regarding transfer by Losing Providers

LP Behaviour	Description	Cases
Losing letter or contact sent in good time	<ul style="list-style-type: none"> <li>Losing contact of some kind was made by the LP</li> <li>In 53 cases this was via a losing letter</li> <li>6 cases via email</li> <li>1 case via voice message</li> </ul>	60

<sup>5</sup> There is no obligation for a CP to restore service - however Ofcom would expect the CP to do so. There is specific mention of this in the OTA Homemovers WLTO best practice guide - a process that can be used through Openreach to restore service back to where it was initially within a few days as opposed to the normal transfer timeframes.

LP Behaviour	Description	Cases
Losing letter or contact too late	<ul style="list-style-type: none"> <li>A losing letter or email was sent, but reached the customer after the switch had occurred or too late to cancel</li> </ul>	16
Losing letter sent to wrong address	<ul style="list-style-type: none"> <li>The correspondence had been sent to the wrong physical or email address</li> </ul>	2
No Losing letter received	<ul style="list-style-type: none"> <li>The consumer stated that they had not received any losing letter or contact</li> <li>It should be noted that this does not mean it definitely wasn't sent - a few consumers said, for example, that they might have assumed it was junk mail and thrown it away</li> </ul>	59
Unknown	<ul style="list-style-type: none"> <li>The evidence did not reveal whether or not the consumer had received a losing letter</li> </ul>	42

Source: Mott MacDonald

### Cancelling unsolicited transfer requests

Given that all 179 of these cases were actual slams, it is implicit that cancellation was not carried out by the CP, whether or not a letter was sent out in a timely manner. However a number of nuances to this situation emerged from the evidence, including the following examples (1 case, except where specified):

- The consumer was away when the losing letter arrived and thus failed to contact the LP in time (6 cases)
- The LP claimed it could not cancel (4 cases)
- The consumer ignored the losing letter (3 cases)
- The CP told the consumer to ignore the losing letter (2 cases)
- The consumer did not read the losing email in time
- The CP blamed Openreach for failure to cancel
- The CP told the cmr to call Ofcom before it could cancel
- The CP said that new legislation prohibited cancellation
- The CP said that there was no need for a losing letter if only calls were being transferred
- The CP told the consumer they must cancel with the CP instead.

### Restoration of service following an unsolicited transfer

Finally, there is also an obligation on CPs to help restore the consumer's service to its original state following the unauthorised transfer. In many cases consumers passed no comment on this aspect of their predicament and it is fair to assume that the CPs in question met their obligations, but in a few of the 179 actual slams it was clear that the LP's actions were causing further problems for the consumer. In this regard the following tendencies were apparent:

- The CP stated that it could not restore the consumer's number (14 cases)
- The CP said a fee was payable to restore the consumer's service (6 cases)
- The CP stated that a new contract was required in restoring service (4 cases)
- The CP obliged the consumer to accept a more expensive package upon restoration of service
- The CP claimed it was unable to restore the consumer's line.

### LP behaviour regarding the 124 attempted slams

Whilst there were some similar patterns of behaviour regarding the attempted slams – for example with regard to the issuing of losing letters – it was less appropriate to comment on the LPs cancellation and restoration behaviour because by their nature attempted slams were those successfully cancelled or not completed and for which restoration of service was therefore not required. Since the attempted slam had not been successful, consumers did not tend to complain about the process of cancellation – and thus it was hard in some cases to tell if the cancellation had been effected by the LP or the GP.

## 4. Analysis of CCT and CP data combined

### 4.1 Introduction

Having analysed the CCT data in isolation and reached a range of verdicts upon it, the next step of the methodology involved reviewing cases with the benefit of all the evidence – i.e. including that provided by CPs. The aim of this step was thereby to reach overall conclusions about the categorisation of cases and the factors driving consumer complaints of different types. Also to determine how accurate CCT information can be expected to be without access to CP data to give the “other side”.

### 4.2 Data received from CPs

Before looking at the impact of CP evidence on the verdicts reached, it is important to comment on the quality of information provided by the CPs – given that there was a significant variation in the manner and quality of response. In some cases CPs provided comprehensive information which was very helpful in understanding the facts of a case – whether that meant a verdict in favour of the CP or the consumer. In other cases CPs provided little or no evidence to set against the consumer’s version of events.

In relation to the quality of response, MM split the CP evidence into 3 classes, explained in Table 4.1.

Table 4.1: MM’s classification of CP data

Classification	Definition
Sufficient	<ul style="list-style-type: none"> <li>The evidence provided by the CP was enough to contribute positively to a verdict on a case.</li> <li>This did not always mean that the CP had provided extensive evidence, but that that evidence provided was pertinent and clear enough to enable add to an understanding of the case</li> </ul>
Insufficient	<ul style="list-style-type: none"> <li>The CP did provide some evidence, but it did not add anything to an understanding of the case.</li> <li>This did not always mean that the CP had provided little in evidence – in some cases CPs provided extensive documentary evidence and numerous call recordings which were still deemed ‘insufficient’ because they were not pertinent to the central issue</li> </ul>
No Records	<ul style="list-style-type: none"> <li>The CP did not provide any evidence to explain the circumstances of the complaint</li> <li>Or the CP provided information relating to the wrong complaint (e.g. a call recording relating to a different</li> </ul>

Classification	Definition
	<p>case entirely).</p> <ul style="list-style-type: none"> <li>■ This included some examples of evidence provided which it was impossible to cross-match to the case in question (e.g. order forms provided which contained neither name, address nor CLI to link them to the case)</li> </ul>

Source: Mott MacDonald

Overall, 68% of all the data received from CPs was sufficient to aid an understanding of cases, 17% of it was insufficient and No Records were provided in 15% of cases.

However, the quality of response varied widely by CP. Whilst two of the largest CPs provided sufficient information in over 80% of cases, at the other end of the scale another leading CP provided sufficient information in just over 30% of cases – and MM encountered a range of values in between these two extremes.

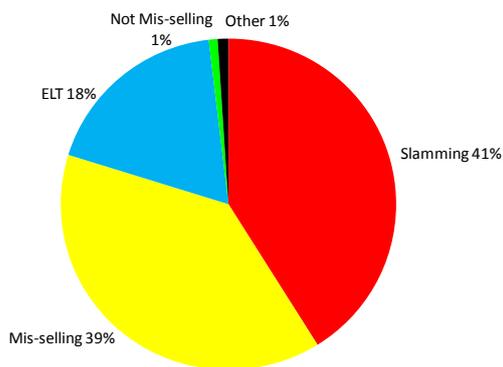
This raised a question regarding how to produce a final verdict on a case in a situation where CP data was insufficient or absent. In such situations Mott MacDonald assumed that, in the absence of adequate response or justification from the CP, the consumer’s complaint was valid. This meant standing by the categorisation of the case reached from a consideration of the CCT data alone. With nothing to prove a legitimate sale or explain the circumstances from the CP’s point of view, there was no reason to doubt the consumer’s word.

#### 4.3 Final overall complaint categorisation

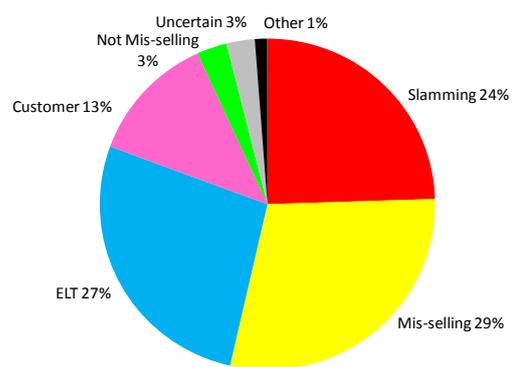
Having considered the evidence provided by CPs – where this evidence was forthcoming – in the context of the information possessed by CCT, MM reached a final verdict on each case. A breakdown of this is shown on the right-hand side in Figure 4.3 below. For the purposes of comparison, next to it Figure 4.2 indicates the split of categories previously shown, based on MM’s view of CCT data only.

Figure 4.1: Overall categories – based on CCT data only

Figure 4.2: Final overall categories – based on all data



Source: Mott MacDonald



Source: Mott MacDonald

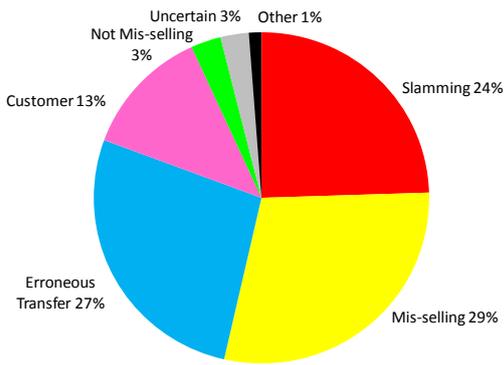
It is immediately obvious from a comparison of the two pie charts that there are far fewer cases of slamming and mis-selling, when all data is considered, and a far greater proportion of ELTs. In addition “Customer” cases, shaded pink, now comprise an entirely new category, accounting for 13% of cases.<sup>6</sup>

#### 4.4 Slamming and mis-selling specifically to ‘New’ customers

On the left-hand side below, Figure 4.4 shows a breakdown of the major overall categories of case, considering all CCT and CP data. Next to it, in Figure 4.5, the slamming and mis-selling cases have been cross matched with a consideration of whether the sale in question was to a New or Existing customer.

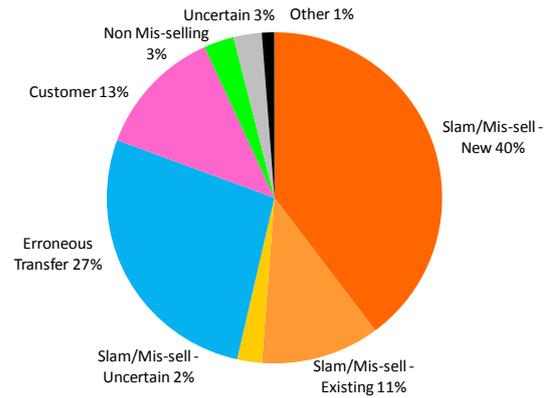
<sup>6</sup> If we exclude 58 attempted slams and 51 attempted erroneous transfers, so that only actual slams and ELTs and mis-selling cases are included, 23% of the 475 remaining cases are ELTs, 18% slamming, 36% mis-selling and 15% Customer

Figure 4.3: Overall categorisation



Source: Mott MacDonald

Figure 4.4: Overall mapped to New vs Existing



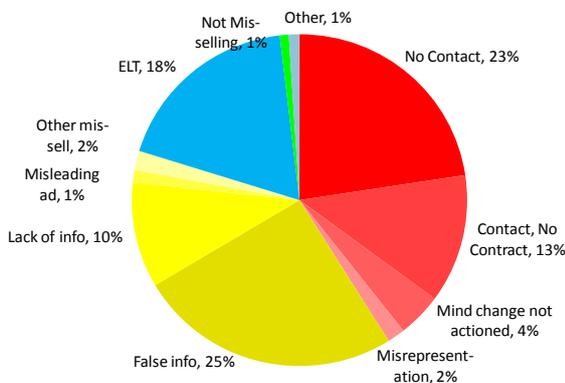
Source: Mott MacDonald

As can be seen from Figure 4.5, 40% of cases involved slamming and mis-selling to new customers – a much lower proportion than the 62% apparent from MM’s examination of CCT data alone (shown previously in Figure 3.10). Only 40% of cases, therefore, breach GC24 on this basis

4.5 Final complaint categorisation at the subcategory level

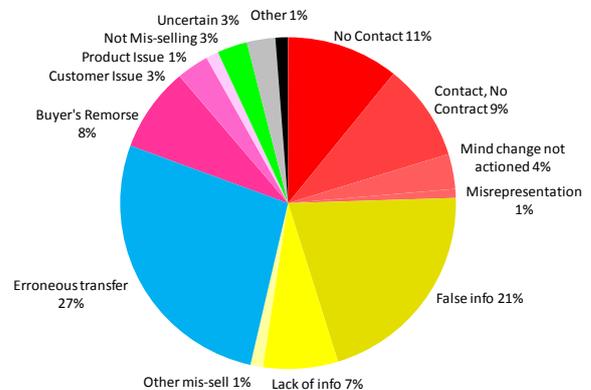
A breakdown of the final categorisation at the subcategory level is shown in Figure 4.6 and Figure 4.7 below.

Figure 4.5: Subcategories - based on CCT data only



Source: Mott MacDonald

Figure 4.6: Final subcategories - based on all data



Source: Mott MacDonald

The sections below explore some of the most significant differences in the verdicts reached with the benefit of CP information.

#### 4.6 Slamming and Mis-selling

##### Overall observations

With the benefit of CP information to explain the circumstances of cases, MM identified far fewer cases of slamming and mis-selling – 313 cases (53% of cases) versus 466 cases when only relying on CCT data (80% of cases).

In particular it was notable that there were far fewer No Contact slams – 11% of all cases versus the 23% of cases apparent from CCT data alone. Originally MM had identified 132 No Contact slams, which was reduced to 60 in the final categorisation – 45% of the original number. This reduction was driven by several categorisation changes:

- 54 of the 132 No Contact cases (45%) were revealed to be ELTs by CP data
- 10 of the 132 (7%) turned out to be cases for which the customer bore responsibility for the issue in question – 7 of them being cases of Buyer's Remorse (where the customer had in fact agreed to the deal in question) and 3 of them other forms of Customer Issue (see section 4.8 below for more on this subject)
- CP evidence also showed that 6 of the 132 cases were in fact other forms of slamming – such as 'Contact, but no contract' slams and misrepresentation.

MM believes it is notable that only a small number of cases previously thought to be 'No Contact' slams turned out to be cases of Buyer's Remorse. In contrast the number of 'No Contact' slams which turned out to be ELTs was high.

#### 4.7 ELTs

##### The final number of ELTs

With the benefit of information from CPs, it became apparent that a much higher proportion of complaints related to ELTs. As Figure 4.6 above shows, MM identified that 18% of cases appeared to be ELTs, when analysing CCT data alone. As Figure 4.7 indicates, this percentage rose to 27% of complaints when in possession of CP data.

In numerical terms, MM identified 158 ELTs having considered all data, compared to 107 ELTs from its analysis of CCT data alone. At a high level, the difference was explained by the fact that:

- 4 cases of the original 107 turned out not to be ELTs
- 55 additional ELTs were identified.

#### The different types of ELT found

It is notable that 107 of the 158 ELTs identified were actual transfers (68%) compared with 51 cases of attempted transfer (32%) – meaning there was a slightly higher proportion of attempted ELTs in the final number of ELT cases compared to that apparent from CCT data alone (where attempted cases were 25% of total ELTs). Indeed, of the additional 55 ELTs identified from CP data, 26 were cases of attempted transfer (47%). This is not entirely surprising, given it is less likely consumers will encounter a clear indicator of an ELT – such as a number change – in advance of the unexpected transfer. This means attempted ELTs are likely to be harder for CCT to spot.

The 158 cases identified as ELTs fell into a number of different categories, indicated in Table 4.2:

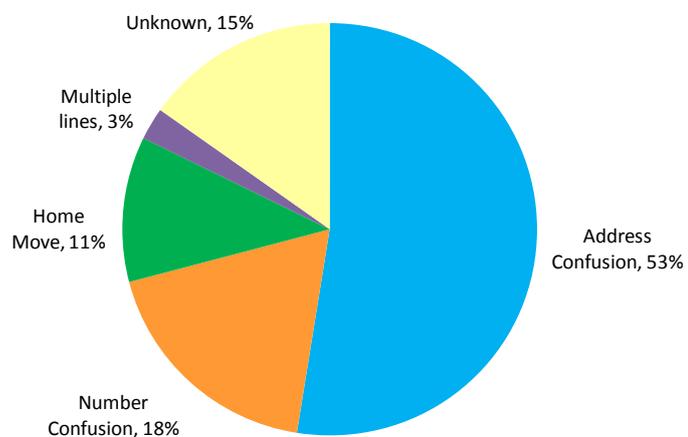
Table 4.2: Different types of ELTs

Type of ELT	Definition
Address confusion	<p>The ELT has been caused by a mix-up over addresses – with the customer, CP rep or order system identifying the address of the complainant instead of the intended address for the order. This results in the wrong line being taken.</p> <p>Such cases tended to involve multiple occupancy buildings or situations where there were similar addresses under the same postcode</p> <p>Some of these cases may have involved a home move, but this was not apparent from the evidence.</p>
Number confusion	<p>The ELT has been triggered by confusion over the correct CLI - with the customer, CP rep or order system identifying the complainant's CLI instead of the CLI intended.</p>
Home move	<p>Similar to 'address confusion' except that in these cases it specifically occurred in a home move situation, with the person moving into a nearby property triggering a transfer of the wrong line.</p>
Multiple lines	<p>Cases in which the complainant had multiple lines in their own property, and the gaining provider took the wrong line in error.</p>

Source: Mott MacDonald

The number of cases MM encountered of each type is shown in Figure 4.9.

Figure 4.7: Types of ELT encountered (158 cases)



Source: Mott MacDonald

As can be seen from Figure 4.9, the majority of cases involved a form of address confusion, with number confusion also a significant contributor to ELTs.

#### The degree to which CCT could have spotted the additional ELTs

As stated above, MM identified an additional 55 ELTs with the benefit of CP data, and it is important to consider how many of these could have been picked up by CCT through an adjusted approach.

In considering this it should be noted that in 44 of the 55 cases Ofcom had run a USP request on the case, which had revealed the identity of the gaining provider taking the line but had not mentioned any number change. As a result, Ofcom had understandably assumed the unauthorised transfer represented a slam rather than an ELT.

In 7 further cases the consumer had originally identified the name of the GP, meaning that a USP request had not been made because the CP making the transfer was known. In only 4 cases was it unclear why a USP request had not been performed.

Whilst performing USP requests on all of the 55 cases (rather than just 44 of them) might have revealed a CLI change in a few more, it does

not seem this would have driven up the number of ELTs spotted by CCT significantly.

Moreover, given that 26 of the 55 cases were attempted rather than actual transfers, there does not seem a lot else CCT could have done to spot an ELT – given that the lack of a transfer and its consequences will mean that some of the side-effects of an ELT may not have yet been experienced by the consumer.

It is quite possible, however, that in the case of the 29 actual transfers some signs of an ELT might have been identified by further questioning. After all, it should be noted that much of the CCT evidence in cases where ELTs were successfully identified by CCT was gathered, admirably, without an overt or systematic focus on identifying such cases. That is to say, CCT advisors are on the lookout for ELTs and do sometimes ask questions which lead to them being identified – but this is not being done consistently with an appropriate script of questions in hand. Introducing such methods would be likely to reduce the gap between the number of ELTs identified from CCT data and those only visible with the benefit of CP information. Further recommendations on this subject are given in section 6.

#### The degree to which Ofcom could have spotted the ELTs discounted by MM

As mentioned above, in 4 cases MM changed the categorisation previously given from ELT to another category. It is interesting to consider the degree to which these 4 changes in categorisation could have been identified by CCT. The reasons for the changes are as follows:

- One case turned out to be a case of Loss of Service for non-payment. It had appeared to be an ELT because of a number change, but the CP evidence showed that this had been triggered by the customer's account being taken out of service as a result of payment issues.
- Another case turned out to be an instance of Loss of Service, caused by a customer downgrading their package which unintentionally triggered a cancellation of their line by their own provider. This led to both a number change and the appearance that the consumer had been slammed by their own provider.
- One case turned out to have been triggered by a customer changing their account from a residential to a business account with the same

provider. This triggered a losing letter, owing to a process quirk, and created the impression that the consumer had been slammed by their own provider, indicating an ELT.

- One case concerned what could perhaps be called an ‘anticipated transfer’, rather than an erroneous transfer. In this situation the CCT evidence showed that an order had been placed to take the complainant’s service by a consumer with a different name, along with a number change. However, the CP evidence showed that there was no error in the selection of the line or address being switched. Rather it was the case that, in a home move situation, the GP rep putting through an order for the person moving into a property had put the order through too early, taking the right line but too far ahead of the home move. There are working line takeover procedures to govern this situation, designed to avoid this kind of transfer disrupting the service of people moving out of a property – but whilst the GP had not followed these procedures this nevertheless represents a slightly different type of process error from a standard ELT.

On the surface one could hypothesise that further questioning by CCT advisors might have shed light on the situation – for example revealing changes the customer was making to their account, payment issues they were experiencing or an impending home move. Asking such questions may well help in some situations. But it is hard to be certain whether the possession of such information would have entirely clarified the matter, and it is easy with hindsight to see the reality of a situation which the consumer was struggling to understand.

#### The extent to which the CP is to blame for an ELT – and the degree to which it could have prevented it

There were 45 cases in which the blame for the ELT appeared to lie with the consumer. This included examples such as:

- Cases in which the order form provided by the CP showed that the customer had filled in the wrong CLI
- Cases in which the customer gave the wrong CLI over the phone
- Cases in which it emerged that the customer had given the wrong address information
- Cases in which the customer was intentionally trying to take over a number they no longer had rights to.

In 51 cases, on the other hand, it was evident that the information relayed by the consumer had not been correctly processed by CPs. This included several types of case, such as:

- Cases in which the CP clearly recorded the wrong address or CLI for the customer ordering service, directly causing the wrong line to be taken. The ELT thus clearly resulted from human error.
- Cases in which the customer had given clear address information, but different information had been entered in the CP's order systems. The address of the line taken (i.e. the address of the complainant to Ofcom) thus matched that in the CP order systems but was not the one sought by the ordering customer. This may again have been because of human error on the part of the CP advisor, or because the address system used did not enable the right address to be selected.
- Cases in which the address in the CP order system or on the welcome letter to the customer differed from the address of the line erroneously taken – with either a different flat or street address, or different postcode. In these cases the ELT appears to have been caused by an error generated by the systems of the CP because the order in the system (or shown on the welcome letter) was correct, but still triggered the wrong line to be taken.

There were also 2 cases in which the CP blamed BT Openreach for the error, although it was not possible to tell whether this claim was valid.

Finally, in 60 cases, it was difficult to discern which party was to blame for the error – the consumer or the CP – and thus to what extent the CP could have taken steps to prevent the ELT occurring.

Overall, it was clear that there was sometimes confusion in the mind of the consumer and the agent placing an order as to the correct address sought – with details not matching precisely addresses in the order systems. There were certainly some cases in which orders were put through despite these question marks, something which should not occur. It also seems clear that the order systems being used by many CPs do not have all of the precise information required to match all addresses perfectly. This would suggest that there are steps that could be taken by CPs to improve their hit-rate in selecting the correct address and CLI.

It was also notable that in the case of a number of ELTs the consumer had complained about having experienced multiple unauthorised transfer requests. It seems that when an erroneous transfer is cancelled, on many occasions the gaining provider will simply attempt to put the transfer through again. Some ELTs had been cancelled two or three times before finally 'succeeding'. It would seem that in these situations the GP could do more to investigate why the transfer has

been rejected – perhaps going back to the consumer to verify address information again, for example.

Overall MM does not believe it is therefore correct to assume that all ELTs are systems / process-based errors which are entirely outside the CPs’ control.

#### 4.8 Customer cases

As can be seen from Figure 4.3, having reviewed CCT and CP data, MM categorised 13 cases as ‘Customer’. As can be seen from Figure 4.7, there were three subcategories within this category, defined in Table 4.3.

Table 4.3: Definition of ‘Customer’ subcategories

Subcategory	Definition
Buyer’s Remorse	Cases in which there is a direct contradiction between the complaint stated by the consumer to CCT, and the reality revealed by CP evidence  Implies the consumer has forgotten or not been truthful about what they clearly did agree
Customer Issue	Cases in which CP evidence has also revealed a different perspective on the case which shows the burden of responsibility for the issue lies more with the customer than the CP  Not a u-turn or contradiction, but nevertheless a change which absolves the CP of responsibility
Product Issue	The complaint situation has been generated as a result of confusion over product characteristics rather than through any fault of the CP’s  Differs from cases in which the CP ought to have explained such characteristics or used them to mislead  Often cases in which the CP explains technicalities clearly, but the customer still does not understand

Source: Mott MacDonald

#### Buyer’s Remorse cases

MM categorised 50 cases as ‘Buyer’s Remorse’. Some examples included:

- A consumer complained that their service had been mis-sold as tariffs differed from those agreed; but the CP evidence showed that he had been paying for the service without complaint for 3 years and that there had been no evidence of any prior disagreement

- A consumer complained about the cost of service differing from that agreed, but full pricing information had been provided at POS and there was no evidence of being misled in this regard
- A consumer complained that the CP had pretended to be BT to secure transfer via misrepresentation – but the call recording revealed clearly that the consumer was informed of the identity and independence of the CP
- A number of consumers complained they had not been made aware of package restrictions or contract length – but CP evidence, including recordings, proved they were clearly told during sale
- A consumer claimed no agreement had been made, but a call recording with their spouse revealed the deal and transfer were clearly agreed.

There is not a lot CCT advisors can do to reduce the number of Buyer's Remorse cases, given they concern the consumer giving a version of events which is contradicted by the evidence of the CP. Whilst in some cases it is fair to assume that the consumer is knowingly giving false information, in others the consumer may genuinely believe they did not agree to, or sign, the contract or deal in place (or have forgotten given the timescales in some cases), in spite of clear evidence that they did. In neither case is questioning by CCT likely to iron out the discrepancy between the evidence given and the reality.

#### Customer Issue

There were also 16 cases which MM categorised as "Customer Issue". Some examples of this category of case included:

- A consumer felt that certain aspects of their package were not explained – for example the definition of "broken calls" on their bill and the charges for 1571. But the CP clearly explained these and other aspects in the sales process and a subsequent customer service call, and it is clear that the issue lay with the customer's failure to grasp the aspects explained rather than any over-charging or deception.
- A Consumer complained he was mis-sold a bundle with calls, BB and TV, but the CP call recording shows that the CP rep was clear and patient with the customer, who has trouble understanding the information relayed, though it is no more complex than normal in such cases
- A consumer was upset that they could not apply online for a deal which was better than their current package
- A consumer complained that he had been moved onto a different package without permission; evidence revealed the consumer had repeatedly exceeded his download limit, despite promising at POS

he was a low user, and having been warned multiple times by the CP that if he continued to exceed his allowance he would have to pay additional fees.

As can be seen from the above examples, there is at times a fine distinction between Buyer's Remorse and Customer Issue. From an overall perspective the difference is moot, to a degree, as both types of case correspond to situations where the burden of responsibility lies with the consumer rather than the CP – regardless of the degree of intent, contradiction or genuine confusion inherent.

#### Product Issue

There were also 7 cases which MM categorised as Product Issue – Some examples included:

- A consumer complained about paying an installation fee, when they had been promised there would be none; the CP evidence showed that they hadn't been charged a fee, with the issue revolving around the consumer's misunderstanding of way the items had been set out in their bill
- A misunderstanding regarding the way line rental charges were applicable to two lines
- A situation created by the impact of agreeing to install ISDN lines.

### 4.9 Patterns of category by CP

MM was keen to understand if the patterns identified above were consistent by CP. If they were consistent across CPs, one could potentially argue that existing metrics could be retained – as long as sufficient caveats are applied. However, if the patterns by CP vary widely – for example in terms of the number of ELTs or the amount of mis-selling to new customers, this might create a need for new metrics capable of reflecting the differences in mis-selling data by CP more accurately.

With this in mind, in the following sections MM considers several aspects of mis-selling categories and characteristics by CP.

#### 4.9.1 The breakdown of major categories by CP

Figure 4.12 below indicates how the overall categorisation made by MM (shown in Figure 4.4) breaks down for each of the 7 CPs with the largest number of complaints:

Figure 4.8: Breakdown of categories by CP (% of each CP's cases)

*[Redacted]*

Source: Mott MacDonald

The columns in Figure 4.12 are ordered from left to right in order of the highest percentage of combined slamming and mis-selling. It is clear that there are major variations in the proportion of cases corresponding to each category, particularly with respect to levels of slamming and mis-selling and ELTs – which have an impact of the validity of the mis-selling metrics used.

#### 4.9.2 Slamming and Mis-selling specifically to 'New' customers, by CP

Figure 4.12 above shows the proportion of each CP's complaints categorised as slamming and mis-selling, but it is also important to understand what proportion of this slamming and mis-selling involved New versus Existing customers – with only cases involving New customers being in breach of GC24.

Figure 4.13 takes the slamming and mis-selling cases of each CP (excluding cases of other types such as ELTs and Customer Issue), and shows what percentage of these slamming and mis-selling cases involved New versus Existing customers.

Figure 4.9: % of slamming & mis-selling cases to New v Existing customers

*[Redacted]*

Source: Mott MacDonald

Again, there is significant variation by CP. Whilst 100% of the slamming and mis-selling some providers involved New customers, the level of mis-selling to New customers was much lower at others – which showed a significant proportion of slamming and mis-selling to Existing customers.

The variation encountered again has implications for the validity and selection of metrics, because it suggests one cannot assume that the mis-selling figures for any CP will contain a certain consistent proportion of sales to New and Existing customers. The proportion

varies by CP, and allowance for this variation therefore needs to be reflected in the metrics used. It may be that this proportion also changes over time for the same CP, perhaps as a result of a maturing customer base driving increased upselling to Existing customers. This is something which could be tracked over time.

#### 4.9.3 Overall incidence of slamming and mis-selling to 'New' customers by CP

Whilst Figure 4.13 shows the proportion of each CP's purely slamming and mis-selling cases involving New customers, it is also pertinent to identify what this means in the context of all of the cases of each CP – to show what % of each CP's total complaints (ie including other types such as ELTs and Customer Issue) involved slamming and mis-selling to New customers. This effectively means mapping Figure 4.13 to Figure 4.12.

Figure 4.14 indicates the results of this mapping, by which the percentage of slamming and mis-selling cases of each major CP are cross-matched to the percentage of those cases involving New versus Existing customers.

Figure 4.10: Slamming & Mis-selling to New as a % of all cases, by CP

*[Redacted]*

Source: Mott MacDonald

The columns of Figure 4.14 have been sorted from the left in order of the highest percentage of slamming and mis-selling to New customers (the bottom orange section of each column). CP B stands out as having by far the highest proportion of cases involving slamming and mis-selling to New customers – with over 80% of all its cases conforming to this type. No other major CP showed a percentage of slamming and mis-selling to New customers of over 50%, although there was still significant variation in the percentages encountered.

It is notable that the reasons driving the proportion of cases encountered of this type varied by CP. The proportion of cases at CP G was affected by the fact that a large proportion of cases were ELTs, whereas at CP A there was a prevalence of mis-selling to Existing customers.

Indeed, perhaps the most notable thing about Figure 4.14 is that no two bars on the graph are the same – they all demonstrate varying degrees of slamming and mis-selling to New customers and Existing customers, as well as variations in the proportion of ELTs and Customer cases. This implies that the metrics used to reflect mis-selling practices need to be able to reflect these variations, as far as possible. A single approach to indicating Mis-selling behaviour is unlikely to have a consistent meaning across all CPs.

## 5. Conclusions on the Accuracy of Mis-selling Complaints Data

### 5.1 Introduction

This section presents MM's conclusions regarding the first stated objective of this project, namely:

*“to identify the accuracy of Ofcom’s fixed-line mis-selling complaints as currently categorised by the CCT, and to identify any deficiencies that might exist within the current system of recording these complaints”*

It should be noted that in considering this subject, Mott MacDonald has assumed “accuracy” refers to two things:

- The degree of precision with which mis-selling data has been recorded by CCT, and the extent to which this reflects a faithful representation of complaints made by consumers
- The extent to which the data recorded by CCT represents an accurate reflection of the amount of mis-selling taking place, and its underlying characteristics, both as a whole and in relation to individual CPs

In this section of the report, Mott MacDonald will therefore draw out its conclusions on accuracy principally from these two perspectives.

### 5.2 The accuracy of Ofcom’s complaints data, relative to information provided by consumers alone

#### 5.2.1 Key insights

At a high level, the data on mis-selling held by CCT gives an accurate reflection of the complaints made by consumers and gives a good overall impression of the amount of mis-selling consumers report.

In particular there was a good level of accuracy with regard to:

- Correctly identifying cases as examples of Mis-selling, according to Ofcom’s internal framework, as opposed to cases of other types of complaint such as Charges or Service issue
  - Only 5 of the 584 cases (less than 1%) should not have been categorised as mis-selling (based on the data available to CCT from consumers)
- Correctly distinguishing between Complaint and Query
  - Only 1 cases should have been discounted on the basis that it was a Query
- Identifying the correct CP as the subject of the complaint

- In only 2% of cases was the CP identity incorrect.

This means that Ofcom can have a very high level of confidence that the fixed-line mis-selling complaints recorded are indeed a complaint, not a query, about some form of Mis-selling against the CP stated.

However, the accuracy of this impression of Mis-selling is undermined to a degree by three factors:

- Accuracy in the identification of the correct sub-category of mis-selling complaint (ie at levels 2 and 3 of Ofcom's categorisation framework).
- Accuracy in the identification of ELTs
- The accuracy with which CCT logs cases as involving New versus Existing customers (or as Neither, when the case is an ELT)

The combined effect of these factors lead to differences between the categorisation made by MM and CCT with regard to some key aspects of Mis-selling. For example:

- MM categorised 23% of cases as No Contact slams, versus 30% identified by CCT
- MM categorised 18% of cases as ELTs (107 cases), compared to the 14% identified by CCT (84 cases)
- MM identified that 63% of cases concerned slamming and mis-selling to new customers and 15% to existing customers, versus the 51% and 35% identified respectively by CCT
- The combined effect of this was that MM identified 62% of cases as involving slamming and mis-selling to new customers (and thus in breach of GC24) versus the 43% identified by CCT.

Several conclusions are apparent from the picture described regarding accuracy:

- 1) Lack of overt prioritisation of gathering key indicators

It should be noted, firstly, that CCT is not currently tasked with systematically gathering accurate data on either (a) the identification of whether a customer is New, Existing or Neither or (b) whether a case is an ELT. Reps do ask questions which help to enable identification of these factors, in many cases, and this data is often recorded by CCT. But the fact remains that the right identification questions are not

*a/ways* asked. The lack of consistency is therefore partly driven by the fact that there appears to be no special prioritisation of such factors.

#### 2) Lack of clear definition of key indicators

Related to this, it is apparent that there is a lack of clear definition regarding what constitutes a New versus Existing customer – something which is not always obvious or easy to discern. To a lesser extent there may also be a lack of clarity regarding which factors are likely to indicate an ELT.

In Mott MacDonald's experience, CCT tends to operate with a high degree of accuracy when is operating with clear definitions and guidelines and with a clear idea of which factors should be prioritised in its conversations with consumers.

#### 3) Inconsistent use of existing data

However, having said that it is clear that CCT is already gathering a lot of the right data regarding New versus Existing customers and ELTs, but is not always using it to correctly categorise cases. ELT indicators were present in CCT case notes in 16 cases, for example, and the fact that the case involved a number change had been identified by a USP request in another 5, but this information had not been used to categorise the case as an ELT.

#### 4) Potential for even greater accuracy improvement

Whilst there is also still a significant gap between the number of cases which were identifiable as ELTs from CCT data alone and the number of ELTs identified with the benefit of CP information, Mott MacDonald believes this gap could be reduced significantly by a more systematic approach to gathering ELT indicators. MM's recommendations on this subject are given in section 6.

### 5.2.2 Conclusion

At a high level Ofcom's mis-selling data is an accurate representation of the complaints made by consumers.

However, this is undermined by some inaccuracies in some of the underlying categorisations carried out.

Accuracy could be further improved by:

- Prioritising the focus on particular factors (eg ELTs and difference between New v Existing)
- Improving definitions of key indicators and determinants
- A more systematic approach to gathering these indicators
- Making better use of existing data.

### 5.3 The accuracy of Ofcom's complaints data, given the benefit of information from CPs

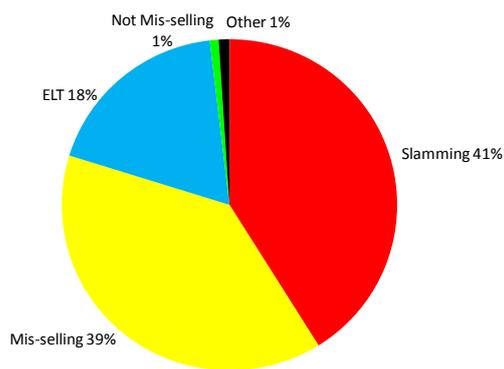
#### 5.3.1 Key Insights

The data gathered on complaints by CCT will never be 100% accurate in terms of the degree to which it reflects the reality of mis-selling which has occurred. Certain factors are only identifiable with the benefit of CP information, such as:

- Cases which turn out not to be case of mis-selling at all, but other forms of issue (for example the issue is really about a payment dispute, or loss of service, with no sales deception having occurred)
- Cases in which the version of events relayed to CCT by the consumer is not an accurate reflection of the reality – for example, where the consumer has not recalled the right details of an agreement made or told the truth about it. There will always be cases which appear to be Mis-selling which turn out to be examples of customer “confusion” or buyer’s remorse
- Cases in which the consumer does not understand what has happened and the information they are able to provide could indicate different root causes. For example, when a consumer’s line has been taken by an unknown CP, and there are no signifying characteristics, it is logical to log the case as a slam, but it could also be an ELT.

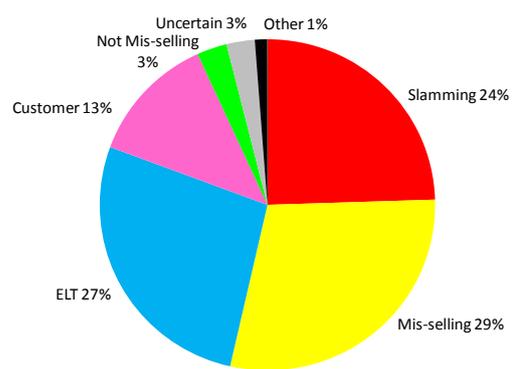
A key question therefore concerns the degree to which these types of case are revealed by CP information and what this therefore says about the accuracy of the original picture of mis-selling painted from consumer data alone. Figure 5.1 and Figure 5.2 below show the differences in categorisation of complaints made – with MM’s categorisation based on CCT data only on the left and based on all data on the right.

Figure 5.1: Overall categories – based on CCT data only



Source: Mott MacDonald

Figure 5.2: Final categories – based on all data



Source: Mott MacDonald

As can be seen from a comparison of the pie charts, relatively few cases turned out not to be instances of mis-selling– 3% of cases with the benefit of all data versus 1% when only considering CCT data from consumers.

13% of cases turned out to be down to the customer – something not visible at all from the original CCT data.

A far larger number of cases also emerged as being ELTs – 27% compared to the 18% previously identified.

Together these changes had the effect of driving down the instances of slamming and mis-selling – from 80% of cases previously to 53% of cases. When this was cross-referenced to New versus Existing customers, it emerged that 40% of cases involved slamming and mis-selling to New customers – compared with an apparent 62% from CCT data alone.

On the face of it, therefore, the fact that CP information has a significant impact on mis-selling categorisation suggests that the picture created from CCT data alone is not entirely accurate. It is, however, worth bearing in mind that in certain cases –regarding the number of slams versus ELTs for example – the gap can almost certainly be reduced by improvements to CCT data gathering.

However, the degree to which the difference is significant depends not only on order of magnitude but also on the degree to which the difference is consistent. If, for example, one could be sure that CP information will always reveal that around 13% of cases are “Customer”

related, then it would simply be a case of qualifying the Mis-selling statistics with this fact. Likewise if one could be confident that ELTs revealed by CP data were always approximately 10% more than ELTs evident from CCT data, one could caveat mis-selling statistics with this observation – or adjust the metrics to reflect this.

An examination of the categorisations results by CP do reveal a significant variation in the patterns of mis-selling encountered by CP, as shown in Figure 5.3.

Figure 5.3: Breakdown of categories by CP (% of each CP's cases)

*[Redacted]*

Source: Mott MacDonald

As can be seen from Figure 5.3, the pattern of final mis-selling categories varies widely by CP – indeed no two CPs have the same pattern of cases. There is arguably a degree of consistency regarding the prevalence of Customer issue cases – with the exception of CP D and CP B such cases emerged as representing 5-15% of cases (for an explanation by CP see Appendix C). But given the variations overall it is hard to see how one could simply caveat the current CCT metrics or say they need to be adjusted by a particular percentage to take account of the real position revealed by CP data. Rather, additional granularity is needed to reflect the underlying variations in behaviour.

### 5.3.2 Conclusion

The mis-selling complaints data recorded by CCT does not reflect a fully accurate picture of mis-selling – given that the benefit of CP information reveals significant differences in the categorisation of complaints. It is also notable in this regard that the mis-selling picture varies widely by service provider, meaning that the degree of difference by CP also varies.

The implication of this is that any metrics used to report mis-selling are advised to break mis-selling down as far as possible into its component parts, by CP, so that for each CP the metrics used take as much account as possible of the variations identified.

5.4 The degree to which data accuracy impacts CP responsibility for mis-selling complaints

One final important consideration concerns the degree to which the patterns and variations in the data impact the validity of presenting it as evidence of mis-selling by CPs. Is it valid to report on the data at all – or are too many of the drivers of complaint volumes beyond CPs' control?

MM believes strongly that, whilst the data is comprised of several varying components, there is nothing to imply that it should not be reported as evidence of mis-selling by CPs. Rather it is a question of finding the right way to present the data in order to reveal its nuances accurately and fairly.

MM believes this because, with the exception of a relatively small proportion of cases related to Customer issues, all the forms of mis-selling which make up the data – slamming and mis-selling to New and Existing customers and ELTs – conform to two key characteristics:

- They cause stress and inconvenience to customers as a result of unauthorised selling and transfer behaviour by CPs
- They are, to some degree, preventable by the CP – through changes to human or systems procedures, or closer adherence to existing codes of practice.

## 6. Conclusions on Improving Data Accuracy

### 6.1 Introduction

This section presents MM's conclusions regarding the second stated objective of this project, which is:

*To provide recommendations on how the accuracy of the data could be improved to ensure greater robustness as well as how best to monitor the integrity of the data on an ongoing basis.*

In the light of the conclusions presented in section 5, Mott MacDonald believes there are a number of actions which Ofcom could take to improve the accuracy of the Mis-selling data in its possession.

*[Sections 6.2 to 6.5 removed]*<sup>7</sup>.

### 6.6 Best Practice Approach to data provision

In addition to internal changes at Ofcom, effective monitoring of CP behaviour and compliance would also be aided by some changes on the part of CPs. One such change concerns an improvement in the quality of evidence provided to investigations of this type.

As mentioned in section 4.2, the quality of information provided by CPs to demonstrate their viewpoint regarding complaints was variable. Having said that, there were clearly cases in which CPs had assembled clear, comprehensive and pertinent information. Ofcom has asked Mott MacDonald to indicate the type of information and approach which represents a good quality of response.

According to such a "best practice" approach, CPs would provide the following information:

- A master spreadsheet giving an overview of the cases against the CP and the materials provided in response. This would include columns / fields identifying for each case:
  - The Ofcom reference number
  - The name, address and CLI of the complainant

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<sup>7</sup> Please note: Ofcom will be considering Mott MacDonald's recommendations for improving data accuracy and the implications for its metrics in due course. We intend to communicate these findings and our subsequent conclusions through a process of engagement with industry.

- A list of the information provided regarding that case, e.g call recording (with file name) and reference to any paper documents, contracts, bills
  - Where evidence has not been provided, a reason for the lack of information.
- Call recordings relating to the case in question. Recordings should:
    - Be clearly linked to the complainant (by CLI or Ofcom reference number)
    - Cover all pertinent conversations with the customer relating to the complaint – which may mean several conversations leading up to the sale, as well as subsequent conversations dealing with the complaint or cancellation. Whilst verification calls are useful as evidence they are rarely sufficient on their own as they do not demonstrate the full sales transaction
    - Be identified by time and date, so that it is immediately apparent in which sequence they come and how they relate time-wise to the sales transaction in question.
  - A paper or electronic document file on each case, which should include:
    - A summary of the CP's explanation of the case and its verdict upon it. Whilst MM always reaches its own verdicts on cases, it is always useful to receive the CP's view and this can help clarify events and assist MM to reach the right conclusion
    - A set of pertinent documents on each case, clearly referenced to the CLI or Ofcom reference number of the case (as indicated in the master spreadsheet). These documents should include as many of the following forms of information as are available:
      - Written contracts or order forms
      - Copies of bills and welcome letters (sent to the specific customer, not generic examples)
      - Screen shots of order systems or account interactions relating to the sale in question
      - Extracts from customer service systems and copies of pertinent notes on the customer's account.

Finally, CPs should avoid sending information which cannot be cross referenced to the case in question, or data which cannot be intuitively understood – i.e. containing obscure acronyms or CP reference codes.

## 7. Conclusions on the implications regarding metrics

### 7.1 Introduction

This section presents MM's conclusions regarding the third stated objective of this project, which is

*To provide a recommendation on the most suitable metric(s) to be used in order to allow for appropriate and meaningful comparisons to be made between CPs based on relevant sales activity.*

*[Sections 7.2 to 7.8 removed]<sup>8</sup>.*

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<sup>8</sup> Please note: Ofcom will be considering Mott MacDonald's recommendations for improving data accuracy and the implications for its metrics in due course. We intend to communicate these findings and our subsequent conclusions through a process of engagement with industry.

# Appendices

Appendix A. Ofcom Mis-selling Categories \_\_\_\_\_ 56

## Appendix A. Ofcom Mis-selling Categories

CCT currently uses a framework of complaints categories to classify each case it receives (with up to 2 classifications per case). Table 7.1 shows the categories which were in use in the Sales category during November 2011<sup>9</sup>.

Table 7.1: Ofcom's mis-selling categories

*[Redacted]*

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<sup>9</sup> MM infers that some changes may have been made to the categories since this time.