

Investigation into BT's reported instances of apparent mis-selling of fixed-line telecoms services

Ofcom summary of research carried out by Schema

Consultation

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Schema's report

Ofcom introduction

Background to the study and Schema's report

1. Ofcom is charged with ensuring there is an appropriate balance between the protection of customers from mis-selling of services, and the ability of telecoms service providers to sell to customers without excessive restrictions.
2. There has recently been concern regarding this balance, owing to the volume and nature of apparent instances of mis-selling reported by BT Retail. These reports, referred to by BT as "Unfair Trading Incidents" (UTIs), are raised by BT Retail when it believes there has been a problem with the process of transferring a customer to another service provider, or "gaining provider" (GP). This is often triggered by a customer ringing to request cancellation. Data published and publicised by BT Retail splits UTIs into two categories: "apparent mis-selling" and "apparent inappropriate transfers". Over 90% of the UTI incidents reported by BT Retail are claimed to be cases of apparent mis-selling by other service providers.
3. Therefore, in September 2004, Ofcom commissioned Schema Associates Ltd to examine and understand to what extent the UTI data published by BT Retail represents a true reflection of the level of mis-selling taking place. Objectives were as follows:
 - To examine the framework currently used by BT to classify UTIs;
 - To examine a representative sample of UTI data and establish which cases should be classed as mis-selling as opposed to some other form of transaction; and
 - To develop an alternative framework that could be used in future to judge objectively the mis-selling of services.
4. Schema delivered their final report to Ofcom in the week beginning 20 December 2004. At the request of Ofcom, and so that Ofcom could fully understand the implications of the research as it applied to individual companies, Schema's report contained information the companies that provided it regarded as commercially confidential, e.g. the identity of companies against whom allegations of mis-selling had been made. Therefore, this report was not published by Ofcom.
5. However, Ofcom considers that the general conclusions of Schema's report should be made publicly available in order to assist with debate on the related issues. Ofcom is publishing this non-confidential version of Schema's report. The only changes that Ofcom has made to the report are:
 - Removing commercially confidential information;
 - Focusing on the findings of the research;
 - Editing the document so that it complies with Ofcom's house-style; and
 - Updating cross-references to account for changes made above.

6. Ofcom would also note that the research and analysis carried out by Schema has already fed into Ofcom's work and decisions, such as:
- The *Direction concerning BT's use of Cancel Other and Determination to resolve a dispute between BT and various communications providers concerning BT's use of Cancel Other*, published 21 January 2005, [\(http://www.ofcom.org.uk/consult/condocs/cancel-other/codir/\)](http://www.ofcom.org.uk/consult/condocs/cancel-other/codir/);
 - The document *Protecting citizens and consumers from mis-selling of fixed-line telecommunications services*, published 13 April 2005; and
 - Discussions with industry generally and individual companies on improvements to their sales and marketing activities, as necessary.

Schema's report

Section 1

Executive summary

1. The monthly UTI data produced by BT does not give a fair reflection of levels of Unfair Trading. Analysis of 220 UTI cases, for which information was provided by the Gaining Provider in response to UTIs recorded by BT, showed that Unfair Trading had occurred in 53% of cases. Schema defines Unfair Trading as comprising Slamming, Misconduct and Mis-Selling.
2. However, also notable was the fact that an evaluation of the same 220 cases using BT data only (recordings of calls to BT) indicated that Unfair Trading appeared to have occurred in 70% of cases. The difference indicates that in order to make an effective judgement on Unfair Trading, it is essential to have access not just to data on the complaint to BT but also on the original sales transaction.
3. It should be noted that, although Schema sampled 517 UTI cases for analysis, it was only possible to analyse 220 of these. This was because in 170 cases the Carrier Pre-Selection Operator (CPSO) was unknown, and in a further 127 cases the Gaining Providers were unable to provide detailed information. BT was also unable to provide relevant information in 69 cases.
4. In general, BT representatives were found to act in good faith in dealing with complaints and requests from customers. Although Schema found BT's UTI categorisation framework to be somewhat limited, the principal issue was that it only had access to one side of the story regarding a complaint. A few issues in relation to BT's actions did arise however, principal amongst which were:
 - wrongly recording UTIs in cases of CPSO to CPSO transfers;
 - cancelling transfers on the assumption that GPs had failed to cancel, without BT having sufficient evidence that that was the case; and
 - divulging the name of a CPSO, when the customer would only be familiar with the name of the Reseller – leading the customer to cancel.
5. Analysis of all data on 220 cases, including recordings and transcripts from GPs, revealed that many incidents which appeared to be unfair trading based on the calls to BT, were in fact legitimate trades. However, these trades fell into two clear camps: cases where the customer denies agreement to BT, but clearly agreed service with the GP; and cases where the customer genuinely did not believe they had agreed service, when in fact a recording of their interaction with the GP reveals that they unwittingly agreed to the sale. The latter situation was of most concern as it was nearly always created by the technique of selling on cancellation. This placed the onus on the customer to call to cancel a transfer, when often the customer did not realise they had made such an agreement. There were a number of unfair and questionable practices associated with this approach, principal amongst which were:
 - making excessive reference to BT: whilst there was only one incidence of a GP claiming to be BT, there were many instances where indirect reference to BT created the same impression;
 - provision of a "Welcome Pack" in response to requests for information which is in fact a token of transfer: many customers believed they had only requested information, when in fact they had agreed to more;

- obtaining bank details through misleading statements, so the customer believes their account is being “verified” when in fact a direct debit is being set up;
 - positioning the mandatory switch-over period as a service benefit; for example calling it the “ten day peace of mind guarantee”;
 - using a process of “quality assurance” at the end of a call; whilst this can be a commendable practice, it was also used deceptively to counterbalance the effect of misleading practices at the end of long calls; and
 - taking advantage of customers who are elderly.
6. On the last point it should be strongly noted that in at least 50% of the 220 cases analysed fully the customer was elderly. Whilst selling to elderly customers is not in itself wrong, nevertheless it is being exploited by some service providers.
7. On a more general level Schema found that consumers in general were confused about or ignorant of aspects of commercial and telecoms transactions, and that this was leading to both unfair trading and customer confusion. For example, the following were some key issues relating to customers:
- the fact that verbal agreements given over the telephone are binding. Many customers commented they could not have agreed as they had not signed anything; and
 - lack of knowledge of telecoms workings, such as the difference between line rental and calls, and between services and service providers.

Section 2

Introduction

Background to study

1. Ofcom is charged with ensuring there is an appropriate balance between the protection of customers from mis-selling of services, and the ability of telecoms service providers to sell to customers without excessive restrictions.
2. There has recently been concern regarding this balance, owing to the volume and nature of apparent instances of mis-selling reported by BT Retail. These reports, referred to by BT as "Unfair Trading Incidents" (UTIs), are raised by BT Retail when it believes there has been a problem with the process of transferring a customer to another service provider, or "gaining provider" (GP). This is often triggered by a customer ringing to request cancellation. Data published and publicised by BT Retail splits UTIs into two categories: "apparent mis-selling" and "apparent inappropriate transfers". Over 90% of the UTI incidents reported by BT Retail are claimed to be cases of apparent mis-selling by other service providers.
3. Carrier Pre-Selection (CPS) and Wholesale Line Rental (WLR) providers have expressed concerns to Ofcom about this data, querying the extent to which it does accurately reflect the incidence of mis-selling, and claiming that BT Retail may thereby be mis-representing the actions of competing providers. Conversely, BT Retail claims the data illustrates that there are genuine issues relating to the process of selling services which the industry needs to address.
4. As a result of this debate, Ofcom decided to examine these issues more closely, and in September 2004 it commissioned Schema to conduct an investigation into BT's reported instances of apparent mis-selling of fixed telecoms services.

Study objectives

5. The principal aim of the study is to examine and understand to what extent the UTI data published by BT Retail represents a true reflection of the level of mis-selling taking place. Objectives are as follows:
 - to examine the framework currently used by BT to classify UTIs;
 - to examine a representative sample of UTI data and establish which cases should be classed as mis-selling as opposed to some other form of transaction; and
 - to develop an alternative framework that could be used in future to judge objectively the mis-selling of services.

Structure of this report

6. This document presents Schema's final report on its UTI investigation, and is structured as follows:
 - following this introductory chapter, Section 3 describes Schema's overall approach to the study, the method used for sampling UTI data for analysis, and the data received from BT and GPs;

- Section 4 reviews the framework used by BT Retail to classify UTIs, and describes Schema's approach to producing a revised framework; it also summarises the methodology used for reviewing and categorising each case;
- Section 5 presents the results of Schema's analysis; this includes an assessment of how consistent BT Retail is when applying its UTI classification framework, and Schema's own conclusions about the selected cases having examined both the BT and GP data; and
- Finally, Section 6 discusses key issues that have arisen during the course of the study – for example, concerns relating to the activities of both BT and GPs – and presents our conclusions.

Terminology relating to service providers

7. There are a number of ways to refer to the companies providing CPS and WLR services to customers. The terms Carrier Pre-Selection Operator (CPSO), Service Provider (SP), Gaining Provider (GP) and Reseller are frequently used, and in order to ensure they are understood in the context of this report, Schema thought it advisable to define them at the start.
8. Therefore, for the purposes of this report, the term CPSO will be used to refer to the company providing support for CPS services in the network – that is to say, the alternative operator to BT which ultimately carries the customer's traffic. This is distinct from the customer's SP, which is the company actually selling the service to the customer (i.e. billing them). In some cases, the CPSO and the SP may be the same, i.e. the same company will sell directly to customers and bill them, and also carry the calls over their own network. Or they may be different, i.e. some CPSOs do not sell directly to customers (and so are not SPs) but rather provide services to SPs that sell directly to the customer. Companies that resell the services of a CPSO can also be referred to as Resellers. Finally the term Gaining Provider is used to refer to an SP which is involved in the process of gaining a customer from BT or another SP. Once the transfer process is completed and the cooling-off period is over, the GP becomes the customer's actual SP – until such time as another GP takes that customer over.

How Unfair Trading Incident (UTI) reports arise

9. The process by which customers are transferred to CPS and WLR services has been designed and documented by BT, providers of CPS and WLR and Ofcom. This transfer is arranged by the gaining provider, which directly raises an electronic order on the customer's behalf with BT Wholesale. BT Wholesale confirms the order and notifies both the gaining and losing provider of the date of the pending transfer. It should be noted that whilst BT Retail is frequently the losing provider, this is not always the case.
10. There must be a gap of at least 10 working days from the time the order is confirmed by BT Wholesale to the time the transfer is made (known as the "switchover period"). Both the losing and gaining providers are obliged to send the customer a "notification of transfer" letter to ensure that the customer is aware of the pending transfer. The letters must be received by the customers during the switchover period so that the customer has the opportunity to stop the process, either because of a change of mind or because the transfer has not been authorised.
11. The customer has the right to cancel the process within the switchover period for any reason. If the customer wishes to cancel the process because they have changed their mind, they must contact the gaining provider. The losing provider is not permitted to

cancel a transfer order in this circumstance. If, however, the customer considers that the switch is being made without their consent, the customer can contact either the gaining provider or the losing provider to stop the transfer.

12. Specific to CPS a "Cancel Other" order is available to BT which allows the losing provider to cancel a customer's order to switch to a CPS provider during the transfer period with immediate effect, without the customer having to contact the gaining provider. Under the terms of a Direction issued by the Director General of Telecommunications on 8 July 2003, BT is able to use a "Cancel Other" order in specified circumstances only; namely where the decision maker in an organisation or household is not aware of the CPS order, either because of slamming (defined as the switching of a customer to a CPS service provider or between CPS service providers without his / her full knowledge or consent) or "internal mis-communication". In such circumstances, when a customer contacts BT Retail (as the losing provider) to cancel a transfer, BT raises what is known as an "Unfair Trading Incident" report.

BT's Use of UTI data

13. BT has posted the monthly volume of UTI reports on its website (<http://www.bt.com/mis-selling/>). BT Retail splits the UTI data into two distinct categories: "apparent mis-selling" and "apparent inappropriate transfers". In addition, since May 2004, BT Retail has started to provide Ofcom with details of the UTI data broken down against customer specific categories.
14. Of the 83,947 UTIs raised between September 2003 and April 2004, 76,197 (91%) fell under the heading of apparent mis-selling, as shown on the website. The use of this data by BT to indicate the extent of mis-selling by service providers has generated considerable concern and debate. This project aims to look more closely at the generation of UTI data in order to contribute to the resolution of this issue.

Mis-selling and Unfair Trading: terms of reference

15. The term mis-selling seems to be used in two different contexts or levels. At a high level it is used to refer generally to bad selling practices, with slamming being a subset which refers to a particular type of mis-selling. At a lower level, mis-selling seems to be used to refer to specific selling practices which are distinct from slamming – for example, deceiving a customer into a sale through misinformation (as opposed to transferring a customer without consent.)
16. In wishing to refer to mis-selling on both levels, Schema found that some confusion was created by the dual application of this term. Given that this project is focused on an analysis of unfair trading incidents, Schema has chosen to refer to the higher form of mis-selling using the term "unfair trading". Under this umbrella Schema has identified three categories of unfair trading practice: slamming, mis-Selling and misconduct. These are defined fully below.

Section 3

Data analysed

Overall approach

1. The overall approach to selecting data for analysis was as follows:
 - to choose one month's UTI data as the basis for selecting a representative sample;
 - to agree with Ofcom an appropriate sampling methodology;
 - to use this methodology to select approximately 500 UTI cases for detailed analysis (the target figure of 500 was set by Ofcom); and
 - for each sampled case, to request data about the sales process and the UTI incident from the relevant GP and from BT Retail, respectively.

Sampling

Sampling Methodology

2. The sampling frame consisted of all the eligible UTI reports for the chosen month. This constituted 15,710 UTI records for the month of August 2004, provided by BT. To select the sample, Schema used stratified random sampling. This method divides the sampling frame into groups, called strata, and then selects a simple random sample from each stratum. Schema grouped the UTI reports by operator, in order to ensure that UTI reports relating to the selling activity of all relevant operators were considered in the analysis phase.
3. As the number of UTI reports in August is quite large (over 15,000), systematic random sampling was used to draw the sample from each stratum.
4. Before applying the sampling methodology, Schema reviewed the data for potential anomalies and filtered out ineligible records (see below).

Review of BT UTI data

5. Following discussions with Ofcom, Schema reviewed the number of UTIs produced each day in August. This was done in order to establish if there were anomalies in the pattern of UTIs according to date - for example, as a result of a sales campaign by an operator, or due to BT changing its UTI recording procedures. It was thought that this could have an impact on whether the records in each strata should be sorted by date, or by CLI (the only two variables available).
6. Having reviewed the data, including studying a graph of the daily UTI pattern, Schema came to the view that the pattern of UTIs across the month appeared random. On the whole, there were varying peaks and troughs as might be expected (for example – weekly troughs on Sundays). Although there was a particularly high number of UTIs on 10 August 2004 (1,895 UTIs), the records for that day related to a usual mix of CPSOs, and thus the anomaly was not thought to signify unusual activity.
7. As a result, Schema agreed with Ofcom that, given the lack of anomalies by date, the records in each stratum would be sorted by date, thus giving a spread of UTIs across the month.

Filtering of UTIs

8. Schema then filtered the 15,710 UTIs in order to identify those eligible for sampling. This involved:
 - excluding UTIs where the customer had indicated that they do not wish their details to be shared with Ofcom (1,081 records);
 - excluding UTIs where the customer has indicated that they do not wish their details to be shared with the gaining operator (148 records); and
 - excluding UTIs where the CLI appears faulty or absent (14 records).
9. This left a total of 14,467 records deemed eligible for sampling.
10. As the requirement was for approximately 500 records to be selected, this entailed sampling one in every 28 or 29 records. Schema decided to sample one in every 28 records, resulting in 517 UTIs being selected (erring slightly on the upside of the 500 UTI records specified in the study requirements).
11. Schema then grouped the 14,467 records into strata by CPSO. Where there were more than 28 records for an operator (i.e. guaranteeing at least one record being sampled), the records were put into a separate stratum. Where there were fewer than 28 records for an operator, the records were grouped as "miscellaneous CPSOs". Where the CPSO was not identified, the records were grouped as a single stratum. In addition for the strata for miscellaneous CPSOs and unknown CPSOs, there were 11 strata.

Sampling of UTIs

12. Schema next took each of the strata to be sampled and ordered the records within each one by date. Then it put all the strata to be sampled together into a single list of 14,467 records. Each record was given a Schema sampling number from 1 to 14,467. A random number between 1 and 28 was selected from which to start the sampling. This number was selected at the following website: <http://www.random.org/nform.html>. The random number selected was 19.
13. Schema therefore selected the 19th record in the list of 14,467 records, and then every 28th record from that point on. As a result, 517 records from the list of 14,467 were highlighted at 28 record intervals.
14. The 517 sampled records were then grouped together in one list in a separate worksheet. The sampling numbers of the records chosen were cross-checked against a column of numbers at 28 number intervals, starting from 19. This confirmed that the records sampled were all correctly sampled at 28 records apart.

Summary of data received from BT and Service Providers

Overview of data received

15. The list of 517 cases selected from BT's August list of UTIs was forwarded both to BT and to the CPSOs identified above during the week beginning 4 October 2004. The intention was to obtain copies of recordings, transcripts and papers associated with each case so as to be able to evaluate each UTI case according to a framework developed during the project. In requesting the handing over of this information, two factors were considered to be particularly important in allowing the project team to

conduct a deep and detailed evaluation of each case: firstly, it was hoped that the data would be returned to Ofcom and Schema in a timely manner – a two to three week timeframe was agreed by all parties to be feasible. Secondly, it was considered important to receive as much information as possible pertaining to both sides of each case. In other words, from BT this would mean supplying recordings and information relating to the original call to or from a customer which led to the case being registered as a UTI. And from the GPs, this would mean information pertaining to the original sales interaction with the customer from which it would be possible to evaluate if trading was indeed unfair.

16. In the event, Schema found that the response from both BT and the GPs, in terms of both the timeliness and completeness of information delivery, was disappointing. The first recordings from BT were received during the week beginning 18 October 2004, and from the Service Providers in the week starting 1 November 2004. The final 49 recordings from BT were not received until 19 November 2004 and from the last of the Service Providers on 1 December 2004.

Data from BT

17. BT provided information on cases in the form of incident notes included in a spreadsheet of cases, and via recordings of conversations held by customers with BT representatives.
18. Whilst incident notes were provided for all 517 cases, the value of these varied: a few notes being comprehensive ten line explanations of the reason for a customer's call, many consisting of one or two lines or a few words. All of them gave at least a basic sense of why the UTI case was originally recorded. It should be noted that each UTI was also accompanied by a classification made by the BT representative of which category of complaint the case should fall into (this framework and its use by BT is detailed below).
19. Whilst the incident notes provided basic information on the reason for a UTI, they were evidently insufficient to allow a full and independent analysis of the characteristics of, and justification for, complaints. Recordings, on the other hand, provided information of sufficient quality for a proper evaluation. BT provided a total of 448 functioning recordings against the 517 UTIs sampled. Whilst this enabled Schema to evaluate 87% of the UTIs registered by BT and the reasons behind the decision made by BT representatives in these cases, it should be noted that this effectively means that in the case of 69 UTIs (13% of the sample), BT is unable to provide sufficient information to substantiate the reasons for classifying the case as an incident of unfair trading.
20. Schema also believes that the poor manner of delivery of information should be noted. Whilst in some cases CDs of recordings were provided clearly labelled and indexed (as might be expected), in other cases the opposite was the case. Some CDs arrived unmarked and contained unidentified tracks (meaning each had to be listened to in advance to verify to which UTI it related, if any). There were 60 duplications of recordings, and a final list provided by BT of recordings delivered contained 63 omissions (recordings apparently provided which were missing). None of this made the task of compiling information and evaluating cases particularly straightforward.
21. A separate issue concerned a different kind of duplication. In three cases the information and incident notes provided by BT corresponded to the correct CLI, but to a different date than that on the list of sampled CLIs. In other words, they related to a second UTI being recorded for the same CLI also within the month of August. This raised a question as to whether the other UTI recorded did indeed correspond to a

separate complaint, or whether two calls from customers relating to the same complaint could have been wrongly recorded as two UTIs. There was also a concern as to how widespread this duplication might be.

22. As a result, Ofcom checked the entire list of 15,710 UTIs for August to identify cases of duplication. Two cases of triplications and 61 cases of duplications were found. As these made up less than 1% of the month's data, Ofcom concluded that it did not present a significant problem. Moreover, BT stated that it believed the duplications were indeed cases of separate complaints, and examination of the CPSO codes revealed that in some cases they did seem to be different.

Data from CPSOs

23. Many of the CPS services provided on the networks of these CPSOs are sold through resellers. Ofcom thus set about establishing the identity of the sales organisations involved in the sale of each of the 346 cases where the CPSO was known. Ofcom also attempted to establish, from the BT incident notes, which reseller was involved with some of the unknown CPSOs.

Summary of information received from resellers

24. The response rate for SPs varied significantly. The worst response rate was an SP being able to provide records for only 38% of the UTI records requested. The best response rate was 89% of the records requested.

Implications for the analysis

25. As mentioned above, the desire was to obtain sufficient data from each side of a case to enable a full evaluation of each UTI. As a result of the inability to identify the CPSO for some cases, and to receive information from BT and / or the service providers in others, this has not been possible. However, matching data of different types was obtained for a number of cases. The resulting picture of data received is summarised in the table below.

Summary of information received from BT and CPSOs

Type of Information Obtained	Number of UTI records
Both Recordings	128
CPSO recording only	17
BT Recording & Usable CPSO Information	67
BT Recording & Customer Information	2
No BT recording & Usable CPSO Information	6
BT recording & nothing from CPSO	251
Nothing from BT or CPSO	46
TOTAL	517

26. As the table above indicates, in 297 cases no information was received from the service provider to enable analysis. Whilst in 170 cases this was because the identity of the CPSO and therefore the Service Provider was unknown, that still leaves over 120 cases where it should have been possible to gain information on the sale. Many cases were returned with comments such as "no recording available", or with an explanation of only one or two lines and a verdict on the validity of the sale which were both insubstantial and unverifiable. In other cases contracts provided were illegible or recordings did not work.
27. However, Schema has determined that in the case of the top five categories in the above table, it has been possible to make a meaningful evaluation of the data received. Where there are both recordings for a case, or a BT recording and detailed GP documentation, this is evident. But where there is only a recording or detailed information from the GP – and no recording from BT - Schema believes it is also possible to make a valid judgement of the case overall. This is because the GP recording or documentation can be considered in the light of the incident notes always provided by BT for the UTI. Though these BT notes do not allow a detailed analysis of the BT decision, they at least reveal the nature of the accusation against the GP, on which the GP recording or documentation can help to produce a verdict.
28. As a result, Schema has identified 220 cases in which it was possible to make an effective evaluation of the case. This includes two cases in which data on the case was secured through a direct conversation with the customer. This leaves 297 cases out of 517 (58%) for which there was insufficient data to evaluate the case effectively.
29. It is evident that this situation falls far short of the hoped for scenario, whereby full information on both sides of the case would enable a detailed analysis across a sample of over 500 cases. In spite of the apparent importance of this issue and the high profile claims regarding the amount of, or exaggeration of, mis-selling – when given the opportunity to provide material in demonstration of their viewpoint it is clear that both BT and the service providers fell short of providing a watertight response. It is tempting to come to the conclusion that parties on both sides of the debate may feel they have something to hide.
30. However, in spite of the above situation it should be emphasised that Schema was nevertheless able to conduct an in-depth analysis of 220 UTI cases. Strong patterns with respect to the behaviour of both BT and the service providers emerged from analysis of this sample, and in terms of the principal qualitative findings of the research it is doubtful that a larger sample would have added significantly to the findings. In terms of the quantitative conclusions, it would be unwise to extrapolate concrete conclusions from the percentages of cases falling into different categories, or to infer that these would be precisely reflected over the whole monthly sample of UTIs. However, there is no doubt that even in quantitative terms certain patterns of behaviour in both the selling of services and the categorisation of UTIs are broadly applicable and highly relevant to the normal monthly crop of unfair trading cases.
31. It should be noted that in general the ability to judge both sides of a case effectively is to a certain extent dependent on the channel of sale employed. A sale by phone can yield a recording of the transaction, whilst a doorstep or shop sale can yield a contract but not a verifiable record of how that contract was secured.

Section 4

Categorisation framework

Analysis of the current framework

- At the time of the research, when a complaint was fielded by a BT service representative with regard to the sale or transfer of CPS or WLR products, an industry-agreed framework was used to categorise each UTI case. The framework consisted of five major categories, subdivided into sub-categories, and is shown in below.

Current framework used by BT to categorise UTIs

1	Customer has had no knowing contact with the GP
1a	customer says has not been contacted at all
1b	customer was deceased at the time of signing
2	Customer did not believe that they were entering into a contract
2a	customer met representative but did not accept the offer and did not sign contract
2b	customer had phone conversation but did not accept offer and did not agree to a contract
2c	customer signed to confirm that the sales representative had visited
2d	customer signed to receive additional information about products and offers
2e	customer signed to say that they were not interested in the product
2f	customer claims he did not know what he was signing
2g	customer signed for info but also provided detailed personal information
2h	customer agreed to take only one product but order placed for several more
3	Customer entered contract on basis of misinformation
3a	denigration of competitors e.g. BT is going out of business
3b	claiming to represent a different company e.g. BT
3c	promising non-existent introductory offers or free gifts
3d	Customer was unaware of the consequences of their actions
4	Inappropriate person entered into the contract
4a	signatory is not authorised by the organisation to make decisions on telecoms provision (e.g. receptionist signs contract)

4b	advised that signatory is elderly and may have been confused
4c	advised that signatory is vulnerable
4d	signatory is under 16
4e	signatory is a visitor to the premises
4f	signatory is a lodger, nanny, housekeeper etc of the authorised signatory
5	Customer pressurised into contract
5a	representative refused to leave until the customer signed
5b	representative threatened or otherwise intimidated the customer
5c	representative made customer feel stupid for failing to take advantage of the deal on offer

2. Whilst this framework represents a relatively effective means of categorising the many UTIs that occur, a closer examination of it revealed that there were a number of potential sales and process scenarios that would not be covered by this framework. Whilst there was seen to be a relatively high degree of granularity with respect to certain types of interaction – for example category 2 above, with 8 sub-categories – in other respects the framework seemed to be lacking categories to deal with certain situations. For example, a situation in which a customer has their service switched from indirect access (IA) to CPS without their permission, or one in which inadequate or misleading information is given about sale and transfer.
3. Most importantly of all, perhaps, was the fact that the above framework seems specifically set up to deal with cases of mis-selling, and does not contain provision for allocating other types of classification to a case in hand. It is even possible that the existence of a framework which only caters for mis-selling could lead to that framework being applied in situations where mis-selling has not occurred.
4. In its response to the Ofcom consultation on mis-selling (“Protecting Citizen-Consumers from Mis-Selling of fixed-line telecoms services”, closing date 3 June 2004), BT refers to these categories of UTIs, saying:

“These UTIs cover a range of categories of ‘unwanted sales’. BT goes on to say: “Ofcom notes that industry has raised concerns as to the extent to which this UTI data is a reflection of mis-selling. BT does accept there are other factors that lead a customer to wish to cancel a transfer in addition to mis-selling. However, the majority of UTI categories clearly relate to aspects of mis-selling and even where there is customer confusion or a change of mind, this points at the very least to the customer being poorly informed if not knowingly mis-sold to.” [Schema’s italics].
5. The above statement would seem to be a key area of debate on the issue of mis-selling. Whilst the five headings of the framework could be seen to cover mis-selling only, this is by no means certain. One needs to look at the reasons why each situation arose, in order to judge whether the case is one of mis-selling or whether it has arisen for another reason (e.g. customer confusion, confusion by BT, etc.) For example, to look at heading 2 “customer did not believe they were entering into a contract”, it is

necessary to understand why that is so. Such a situation could be the result of mis-selling, but could also occur due to a customer's error, despite the selling company's best efforts.

6. This becomes more apparent when looking at the subcategories that make up heading 2. For example, under this heading comes type 2f: "customer claims he didn't know what he was signing". In this case the customer has signed the contract for the service, yet claims they did not intend to. To what extent is this mis-selling? In this, and many cases, it will depend on the circumstances in which the sale was made.
7. In fact, an examination of all twenty-three subcategories under the five headings reveals that in the majority of cases there is scope for investigation of whether mis-selling occurred and what underlies the occurrence of the case. In only relatively few cases could mis-selling be deemed clearly evident, cases such as: "customer was deceased at the time of signing", "Claiming to represent a different company" and "Representative threatened or otherwise intimidated the customer" for example.
8. It seemed clear therefore that these categories need to be analysed and qualified further in order to form an effective framework. In doing so it was thought important to develop a framework with categories to cater for situations of mis-selling, where appropriate, but also cases where there may be another issue with a transfer. For example, a customer might be calling in relation to a transfer having changed their mind in one way or another, or because they are having trouble with the cancellation process.
9. And in order to ensure that each of these categories is precisely applicable to the case being evaluated, it was felt that each of the subcategories in the framework ought to be defined by a set of unique criteria. This means we need to understand not just into which category a case superficially falls, but also understand why exactly that is the case.
10. The approach undertaken by Schema to developing such a framework is detailed in the following section.

Schema's approach to producing a revised framework

11. The process of developing a revised framework involved a number of activities, principal amongst which were the following:
 - review of the existing framework being used;
 - brainstorming as to other sales and transfer scenarios that could lead to calls to BT representatives regarding the sale and transfer of CPS and WLR services;
 - once received, a review of the BT incident notes on the spreadsheet of sampled UTIs returned to Ofcom / Schema by BT. This enabled further additions to the scenarios in hand;
 - the production of a preliminary framework for review and approval by Ofcom;
 - the use of the framework once the process of analysis of UTI cases started – once information started to be received for both sides of a UTI case; and
 - constant revision to and amendment of the framework in reaction to the kinds of cases being encountered.
12. With respect to the last bullet point, it should be noted that the development of criteria to define each subcategory of case was an important part of this process. In allocating

a case to a particular category, Schema would review the criteria defining that category. If the case and criteria did not fit, this meant either that the criteria needed to be redefined (making sure that this did not undermine the categorisation of cases already defined by those criteria) or alternatively it indicated that a new sub category was needed. The criteria developed for each subcategory are listed in Annex A.

13. It is hoped that by using this technique to develop the categories and criteria which define them – i.e. by using detailed data on real cases to constantly test and refine the framework – that a comprehensive and highly usable framework has been produced.
14. It should be noted at this point that whilst this is the case, the degree of usability of the framework to categorise UTIs will depend on the situation in which it is employed. The framework has been developed using not only data from BT recordings, but also data from the GPs to which the UTIs relate. Of course, a BT representative using a framework to categorise a case during a call does not have access to the sales recording from the GP and will thus not be able to assess if the information being relayed by the customer regarding a sale is consistent with the reality of that sale. However, the BT representative would be able to use this framework within the constraints of the information available to him or her. And the framework would also be applicable to a situation in which an independent reviewer had access to full information on a case. Schema intends this framework to be a foundation applicable to a number of future scenarios in which cases of unfair trading could be evaluated. But it should be noted that it is likely that a final version of this framework would have to be tailored to the particular situation in which it is to be used.

Description of revised framework

15. Schema's framework consists of four levels of classification, namely:
 - A: Six high-level categories (defined below). These are:
 - Slam;
 - Mis-sell;
 - Misconduct;
 - Customer Issue;
 - Process Issue;
 - BT Issue;
 - B: Headings for Schema categories, devised from analysis of the UTI cases (shown below);
 - C: Sub-headings for Schema categories, devised from analysis of the cases, giving an additional layer of granularity (shown below); and
 - D: Industry categories currently being used by BT (see above).

Category A of the Schema framework

16. These categories are designed to indicate an ultimate verdict on each case. The first three of these categories – Slam, Mis-sell and Misconduct – could be considered to fall under the general heading of Unfair Trading. On the other hand, the remaining three categories – Customer Issue, Process Issue and BT Issue – correspond to situations where sale or transfer has become an issue for a reason other than any kind of mis-selling or inappropriate behaviour by the GP. In other words, unfair trading has not occurred. Precise definitions of each of these six terms are as follows:

Slam

17. Slamming is defined as the switching of a customer to a CPS service provider or between CPS service providers without his/her full knowledge or consent. In this case, full knowledge and consent refers to the customer being aware of and consenting to the transfer process itself, and not the fine details, for example, of call pricing. A slam will also be deemed to have occurred where the company transferring a customer claimed to represent the company presently providing service to the customer. For example, if a customer uses BT for their calls and agrees to accept service from another company claiming to be BT, this is considered to be a slam even though agreement was obtained. This is because the customer did not realise that accepting service implied transfer from BT, and as such to transfer such a customer is to do so without consent.

Misconduct

18. This covers a range of threatening and fraudulent sales activities by companies and their representatives. Misconduct can include:
- applying unacceptable pressure such as refusing to leave before a customer signs, or using threatening or otherwise intimidating behaviour; and
 - sales representatives knowingly using the fact that a customer is not capable of understanding the offer due to ill health, language problems, old age, etc.
19. Schema thought it important to include this category to draw a distinction between cases where there is commercial deception and ones where there is moral or social deception – perhaps in situations where the letter of the law has been followed but the sale is unacceptable by universal standards of behaviour.

Mis-selling

20. This covers a range of irresponsible sales and marketing activities that can work against the customer's interests and undermine confidence in the industry. Mis-selling can include:
- a company giving false or misleading information about potential savings;
 - special offers that do not materialise; and
 - telling lies about the competition (e.g. stating that BT is going out of business).
21. Mis-selling is distinct from Slamming in that the customer is aware of and consents to the sales process initially, but does so on the basis of irresponsible activities of the kind described here.

Customer Issue

22. This covers a range of situations where the problem arises due to genuine customer mis-understanding, change of heart, or mis-communication between household/business partners (e.g. husband and wife). In such cases the CPS service provider(s) will have provided all the necessary information and followed the correct sales procedures. This means that the burden of responsibility for the breakdown in sale or transfer is deemed to lie principally with the customer, as opposed to the GP.

Process Issue

23. This covers cases where the switching process itself leads to a UTI. Process issues can include:

- CPS service provider is delayed in carrying out cancellation due to technical reasons, during which time the customer contacts BT; and
- CPS service provider is following cancellation procedure but customer contacts BT to check on the cancellation process because BT is familiar to customer.

BT Issue

24. This covers cases where BT creates a UTI due to inappropriate judgements on its own behalf, where there is no evidence of unfair trading. Such instances include, for example:

- Cases involving CPSO to CPSO transfer, where BT should not have become involved and should have handed the customer back to their current CPS service provider rather than issue a UTI; and
- Cases where BT misleads/confuses the customer by naming the CPSO rather than the reseller, leading the customer to cancel. In most cases the CPSO has a different name to the reseller, and thus the fact that the customer has not been contacted by the company named by BT as the CPSO, does not necessarily mean they have not been contacted by the reseller. But the customer, hearing an unfamiliar name from the BT representative, can come to the conclusion that they have been deceived.

Categories B and C of the Schema framework

25. Category B represents the second level of classification for a case evaluated by Schema and Category C comprises the subcategories within it. Each category C type is also defined by a series of criteria. The tables below summarise the Category B and Category C descriptions corresponding to the six-high level Category A verdicts:

CATEGORY A	CATEGORY B	CATEGORY C
Slam	NO CONTACT WITH GP AND NO CONTRACT	Person not present (e.g. not in country, on holiday, deceased)
Slam	"	Not spoken & no one in household or company spoken with GP
Slam	"	Number mistakenly transferred (e.g. from a previous account)
Slam	"	Transfer from IA (dialler or prefix)

CATEGORY A	CATEGORY B	CATEGORY C
Slam	CONTACT WITH GP BUT DID NOT AGREE CPS CONTRACT	Told GP did not want to change
Slam	"	Did not tell GP wanted to change
Slam	"	Non decision maker told GP needed to speak to decision maker; no agreement for service given
Slam	"	Requested information only
Slam	"	Purchased another service e.g. digital TV, utility or mobile
Slam	"	Purchased another calls service e.g. international option
Slam	"	Thought they were signing for something else

CATEGORY A	CATEGORY B	CATEGORY C
Slam	MISREPRESENTATION	GP said was part of BT/connected to BT
Slam	"	GP strongly implied was from BT
Slam	"	GP said was part of a different company (not GP, not BT)
Mis-sell	"	GP told lies about the competition

CATEGORY A	CATEGORY B	CATEGORY C
Mis-selling	CPS CONTRACT AGREED BY CUSTOMER WITHOUT FULL UNDERSTANDING/ ACCEPTANCE	Customer was told line rental included in CPS
Customer	"	Offer was not what the customer wanted/understood
Customer	"	Web click through: customer not happy with package selected on web
Mis-sell	"	Web click through: customer mislead by package agreed on web
Mis-sell	"	Misinformed regarding service costs/features
Mis-sell	"	Special offer did not materialise
Mis-sell	"	Customer did not receive information promised
Mis-sell	"	GP said could only send information if customer agreed to contract
Mis-sell	"	Misleading/inadequate information given about transfer and billing
Mis-sell	"	Customer accepted service as told existing service (e.g. International) no longer exists
Mis-sell	"	Customer agreed on the basis of false information
Customer	"	Customer thought the GP was BT
Misconduct	"	[GP aware that] customer not capable of understanding the offer (thru ill health, general infirmity)
Misconduct	"	[GP aware that] customer not capable of understanding the offer (language problems)
Misconduct	"	GP knowingly took advantage, pressurising vulnerable customer (though customer did understand)

CATEGORY A	CATEGORY B	CATEGORY C
Mis-sell	CPS CONTRACT NOT WITH AUTHORISED PERSON	GP aware not speaking to authorised person
Mis-sell	"	GP aware not speaking to account holder, but made no effort to check if person authorised
Customer	"	GP thought they were speaking to authorised person (spouse/partner/other)

CATEGORY A	CATEGORY B	CATEGORY C
Process	CANCELLATION OF ORDERS	Customer requested cancellation from GP but customer says no action taken
Process	"	Customer requested cancellation from GP but GP is unable to cancel
Process	"	Customer requested cancellation from GP but GP refuses to cancel
Process	"	Customer does not know how to cancel order with GP
Process	"	Customer does not know how to get in touch with GP
Process	"	Customer cannot cancel with GP, because BT has implemented call barring
Customer	"	Customer changes mind
Customer	"	Customer gives no reason but wishes contract cancelled
Customer	"	Customer denies agreeing contract/transfer (despite evidence of agreement)
Customer	"	Customer unaware order made by other authorised person
Customer	"	Customer made a (verbal) contract, wishing to review and possibly cancel
Customer	"	Customer signed/agreed a contract, but wanted information only
Customer	"	Customer did not think a verbal contract was binding
Customer	"	Customer wishes to cancel gives incapacity as reason e.g. old/ foreign (GP not aware)
Customer	"	Customer cannot remember if spoke to or agreed to contract, and wishes to cancel
Mis-selling	"	Customer wishes to cancel as felt pressurised into contract
Misconduct	"	Customer wishes to cancel as felt threatened into agreeing to contract

CATEGORY A	CATEGORY B	CATEGORY C
BT Issue	INAPPROPRIATE ACTION BY BT	CPSO to CPSO (both non-BT)
BT Issue	"	BT introduced CPSO name (not reseller), leading customer to cancel
BT Issue	"	Customer requested cancellation from GP but BT says no action taken
BT Issue	"	BT persuades customer to cancel transfer, and provides no evidence of mis-selling
BT Issue	"	BT cancels service as non bill payer made order (when by its rules, non bill payer is authorised to make decisions)
BT Issue	"	No complaint or issue recorded
BT Issue	"	BT representative fails to complete or comply with UTI procedure
BT Issue	"	Customer complains to BT about mis-selling before evidence of transfer

26. The number of cases which were adjudged to have fallen into each category can be found below.

Procedure for reviewing and categorising each case

27. Schema used the above framework to categorise each of the 220 cases about which there was sufficient information to make a judgement. In approaching the categorisation of each case, Schema was aware that some cases might be open to several types of categorisation. In such situations Schema determined to be guided by two main principles:
- to assign the category based on what a customer stated, rather than the suggestions made by the agent; and
 - to select the most serious category which applies to the incident e.g. firstly misconduct, then slam, then mis-sell, then customer issue etc.
28. For each given case the process used to categorise each case is detailed in the sections which follow:

Step 1: Evaluation of BT data only

29. Schema first reviewed the information from BT, which entailed listening to the recording provided and reviewing the incident notes forwarded by BT. Schema made its own detailed notes on each call, recording the salient and influential points of each case. Having recorded this information, Schema then firstly evaluated each case based solely on BT data, the intention being to evaluate how each case is being assessed by BT and would be categorised by Schema's framework, given only the data available to BT. Four categorisation decisions were then made on the case:
- 1: Evaluation of the case using the existing framework used by BT (called Category D in the Schema framework). Using the existing framework, based only on the BT data, determine whether Schema agrees with the original decision made by the BT representative;
 - 2: Assign a categorisation at level C of the Schema framework. Determine into which sub-category it falls;

- 3: Assign a categorisation at level B of the Schema framework. Determine into which major-category it falls; and
- 4: Assign a categorisation at level A of the Schema framework. Determine whether the case is an example of a Slam, Misconduct, Mis-selling, Customer Issue, Process Issue or BT Issue.

Step 2: Evaluation of GP data only

30. Next Schema reviewed the information on the same case using only the information supplied by the GP – whether a recording, paperwork, incident notes or a combination of these. Again, detailed case notes were made of the salient points. Using Schema's categorisation framework, three decisions were then made on the case:

- 1: Assign a categorisation at level C of the Schema framework. Determine into which sub-category it falls;
- 2: Assign a categorisation at level B of the Schema framework. Determine into which major-category it falls; and
- 3: Assign a categorisation at level A of the Schema framework. Determine whether the case is an example of a Slam, Misconduct, Mis-selling, Customer Issue, Process Issue or BT Issue.

Step 3: Evaluation of all data

31. Finally Schema reviewed the information provided for both sides of the case. Judging from the notes recorded and evaluation made of each side of the case, Schema determined into which category the UTI should finally be allocated. This again involved three categorisation decisions:

- 1: Assign a categorisation at level C of the Schema framework. Determine into which sub-category it falls;
- 2: Assign a categorisation at level B of the Schema framework. Determine into which major-category it falls; and
- 3: Assign a categorisation at level A of the Schema framework. Determine whether the case is an example of a Slam, Misconduct, Mis-selling, Customer Issue, Process Issue or BT Issue.

32. This process was repeated for each UTI case.

Primary interviews with customers

33. It was the original intention of the project team to conduct a number of interviews directly with customers. It was thought that in cases where information was conflicting or complex, something could be gained from talking to certain customers directly, with a view to clarifying ambiguities in the evidence. In the end, this process was not undertaken for several reasons:

- The timescales of the project slipped greatly as a result of the time it took BT and the GPs to provide information. The original idea had been to obtain all the data quickly (within 2-3 weeks), assess which cases were "difficult" as opposed to "easy", and then spend a two week period calling customers regarding the difficult cases. This approach had to be abandoned when it became clear that some information would arrive barely in time to be assessed at all before the deadlines for project completion; and

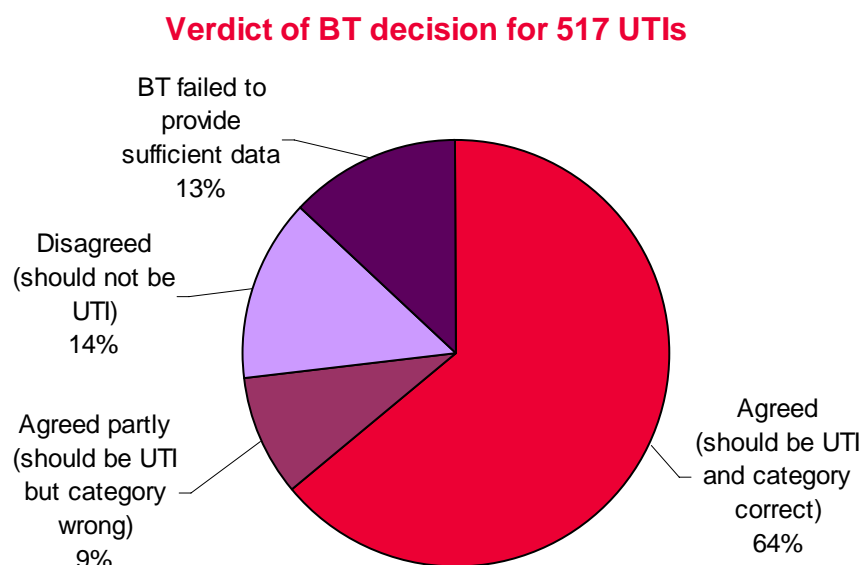
- It was also assumed that there would be more grey areas with respect to the making of decisions on cases. In reality, using the framework developed, it has not been hard to categorise the cases, though evidently at times there were choices to be made with respect to whether a case fits into one subcategory or another. In the event, the quantity and timeliness of data delivery have been the predominant issues, as opposed to the resolution of ambiguities within the data that has been delivered.
34. Nevertheless it should be noted that in two cases Schema has produced an overall verdict on a case based on supplementary information provided by the customer as opposed to the gaining provider.

Section 5

Analysis of results

BT's use of the original framework

1. As mentioned in above, the first step Schema took was the review of the data from BT, to establish whether Schema agreed with the categorisation decision made by BT using the existing framework.
2. The results of this evaluation are given in the graph below:



3. In 13% of cases, for 69 UTIs, BT failed to provide a recording or detailed notes, meaning that no proper evaluation of BT's decision to record a UTI could be made (at least based on BT's own data.)
4. In 64% of cases, for 329 UTIs, Schema agreed with BT's decision on its own data. That is to say: Schema thought the case should be a UTI and that the categorisation decision made by BT was correct.
5. In 9% of cases, for 47 UTIs, Schema agreed partly with the decision made by BT. This meant that whilst Schema agreed the case should be a UTI, Schema disagreed with the individual category chosen by BT from its own categorisation list. For example, in many cases a UTI would be logged as "customer had no knowing contact with the SP", when the customer had clearly indicated in the call that they had spoken to the SP and declined to accept the service – meaning that the correct category should have been "customer did not believe they had entered into a contract". In other cases BT selected "customer did not believe they had entered into a contract", when it was clear the customer did believe they had done so, but on the basis of misrepresentation, meaning that the category chosen should have been "Customer entered into a contract on basis of mis-representation."

6. In 14% of cases, for 72 UTIs, Schema disagreed that the case should have been called a UTI at all, because even from the evidence presented by BT there was no justification for recording the case as a UTI. For example, a number of cases related to CPSO to CPSO transfers, cases which proper procedure dictates that BT refer back to the customer's existing CPS service provider. In such cases it is not appropriate to record unfair trading.. In addition there were cases where it was clear that the customer was calling as a result of a change of mind, or because of encountering a problem with the cancellation process. In such cases Schema disagreed with the decision to record a UTI.
7. Schema is of the view that the above categorisation behaviour reveals several important insights. Firstly, it appears that the present framework for the categorisation of cases is too narrow to cater for the full range of cases that it deals with. If a framework which caters for cases of mis-selling only is maintained, care must be taken that it is not applied to process cases where mis-selling is not the issue being broached by the customer, but a change of mind or problem with the process. Put in the situation that a customer calls and wants to cancel – because they have changed their mind or cannot cancel for another reason – representatives are in certain cases recording UTIs against cases without justification. And it is also the case that where there does appear to be clear justification to record a case as a UTI, representatives are not taking sufficient care that UTIs are being registered for the correct reason. This in turn suggests a certain casual approach to the classification of UTIs, which is perhaps out of step with the fact that making a claim of unfair trading is a serious accusation which needs to be handled correctly. This means rigorously following the procedures laid down for the recording of UTIs and assuring that all the right questions are asked and responded to without ambiguity.
8. Schema would like to point out, however, that whilst the above rigour is not always in evidence, in the vast majority of cases BT representatives did endeavour to ask the appropriate questions of the customer and to take due care to record incidents correctly. If sometimes there were lapses in this respect, it should be borne in mind that BT representatives are to a certain extent operating in a conflicting position as both supposedly objective fielders and assessors of customer complaints, and as representatives of BT.
9. As a final comment with respect to BT's use of the existing framework, it should be noted that the agreed industry heading for the third category is "Customer entered contract on basis of misinformation". In employing this term in its categorisation, BT uses instead the term "Customer entered contract on basis of mis-representation". Whilst this is only a minor discrepancy, there is nevertheless a difference between the two words which should be observed. Misinformation covers a number of misleading activities, including misrepresenting, which is a more specific type of unfair practice.

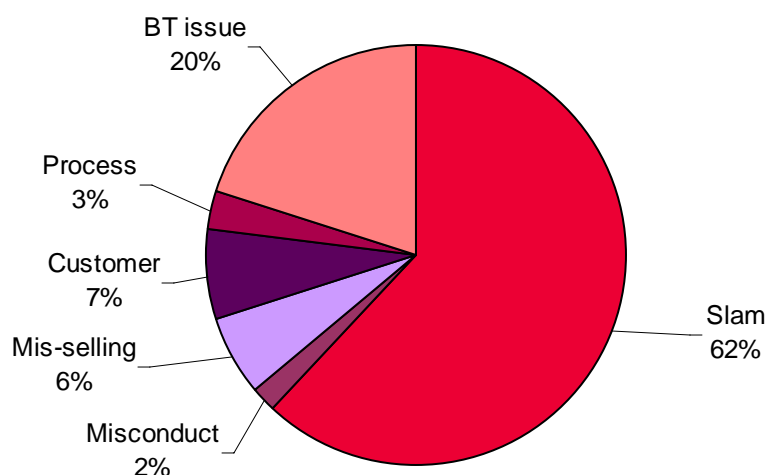
Results of Schema's analysis of complete cases

10. Having evaluated BT's use of the current framework, Schema set about applying its new framework to the cases. As mentioned previously, Schema identified 220 cases for which there was sufficient data to make a detailed evaluation of the case and to produce an overall verdict. As described above, there were three principal steps to this process. The findings and insights generated by each of these steps are detailed in the sections which follow.

Results of Step 1: Evaluation of BT data only

11. The first step was to evaluate BT's data using the new framework, and to allocate appropriate verdicts to the cases. The breakdown of results at category level A is as follows:

Schema analysis of 220 full cases - based on BT data only



12. There were a total of 135 cases of slams (62%), 4 cases of misconduct and 13 instances of mis-selling (6%) meaning that there were a total of 152 cases of Unfair Trading,. This represents 69% of the 220 cases evaluated.
13. The principal reasons for the number of Slams were instances of customers having contact with a gaining provider and either declining service or requesting information, only to discover they were being transferred. In other cases customers complained of GP representatives claiming they were representing BT or affiliated companies. In many cases customers did not claim that this was stated outright by the GP representatives, but that such a strong impression of working for BT or under its auspices was created that this was the over-riding understanding they took on board.
14. 4 cases (2%) of misconduct all related to the inappropriate sale of products to customers evidently not only elderly, but also having trouble understanding the service being sold.
15. The cases of mis-selling related mainly to incidences where the GP must have been aware that the sale was being made to a person who was not authorised, and to situations in which the sales were made on the basis of misleading or inaccurate information.
16. 45 cases (20%) were designated as BT Issues. In 23 of these cases, this was because in a situation in which the CPSO had provided sufficient information and / or a recording in support of the sales process, BT had not been able to provide a recording or paperwork to substantiate its claim of unfair trading. In a further 10 cases, the reason for allocating a case to the BT Issue category was that the incident concerned a case relating to two CPSOs, in a situation in which the person calling BT was not a customer of BT for calls. As mentioned above, in such cases guidelines indicate that BT should refer the incident to the customer's existing service provider.

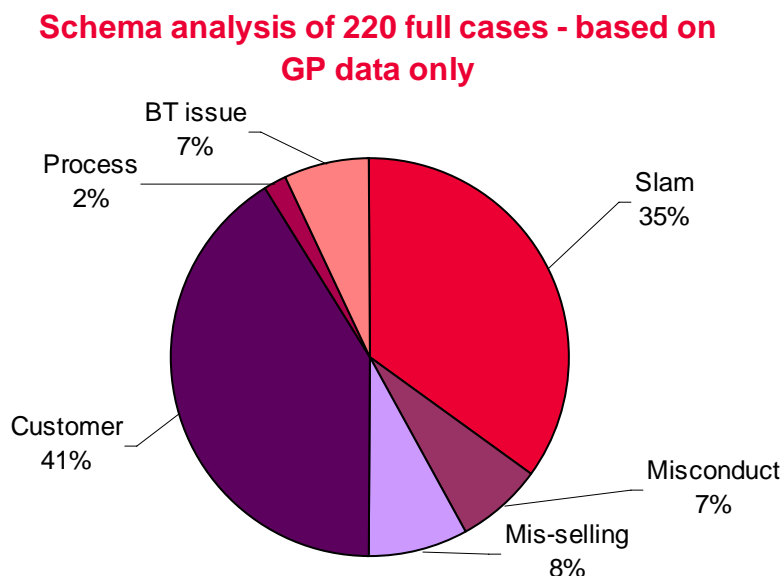
17. It should be noted that in several of these cases there is no doubt that the BT representative recording a UTI was acting in good faith and often in accordance with the apparent interests of the customer. In some of these cases it seems clear that mis-selling has occurred – by a new gaining provider trying to illicitly poach a customer from their present provider. However, whilst this may be the case, according to Ofcom guidelines, strictly speaking BT should not register these instances as UTIs. Nevertheless, BT representatives are in a difficult position, since many customers know no other outlet for their complaints if they are concerned that a cancellation is not occurring.
18. However, with regard to cancellation, it was also the case that 8 BT Issue UTIs were created by situations in which a customer called BT to inform it that they had instructed the GP to cancel their service, and BT – rather than the customer - determines that cancellation of service is not being carried out by the GP. In such situations BT representatives typically consult their system and declare that they can still see the order and that the GP is failing to cancel it. However, in reality the BT representative cannot be certain that the GP is not in fact cancelling, as a cancellation in progress may not show up on the representative's system. It could well be the case that the GP is in fact complying with its obligations and acting in good faith. To record a UTI against the GP in such a situation represents inappropriate behaviour by BT in two respects: in that it is not a correct assessment of the GP's action; and in that it also serves to create a false impression in the customer's mind about the behaviour of the GP.
19. In addition, there were three instances of cases in which BT had wrongly cancelled a transfer and recorded a UTI on the basis that the service was agreed by the non-account holder. Whilst at first sight this might seem a reasonable course of action, it should be judged in the general context of acceptable decision-making as put into practice by BT (and also the GPs) in the vast majority of cases. In general, a looser definition of the decision maker is employed, such that in situations where people co-habit as spouses or partners each one is considered to be A decision maker, as opposed to one of them being THE decision maker. BT uses this looser definition in the vast majority of cases – for example it is always prepared to accept the request of the spouse of the account holder if they wish to cancel a transfer request. Such an attitude is reasonable and fair. If there are cases in which the spouses disagree regarding the decision to take a service, this is in reality more akin to a change of mind in the household, a difference of opinion, rather than a dispute over authorisation. Given the loose approach taken to this issue by BT and its willingness to implement actions based on the mandate of a non-account holding decision makers, it is inappropriate for BT to cancel the transfer request made by the spouse of an account holder merely on grounds of lack of authorisation. There is no evidence in such situations that the GP has acted unfairly, and a cancellation can be considered expedient, but not just. The alternative to invalidating UTIs made by BT on this rigid interpretation would be to require the constant and consistent use of such an interpretation. Such a course of action would certainly invalidate a far greater number of UTIs on this list which have been recorded reasonably, but on the basis of a conversation with a non-account holder.
20. There was one further case of a BT Issue in this category, a situation in which the BT representative persuaded the customer to cancel transfer without any evidence of mis-selling.
21. There were 16 cases considered to fall under the heading of Customer Issue. Six of these cases were deemed to be changes of mind on the behalf of the customer, with no evidence of mis-selling or inappropriate behaviour given. In three Customer Issue

cases the customer wished to cancel because they thought the GP was BT. It should be noted in reference to these that there are many other cases in which it is clear that the GP exploits the fact that the customer assumes the GP is BT or in which the GP misleads the customer, directly or indirectly into such a misapprehension. However, whilst these cases certainly outweigh situations in which this assumption can be considered to be the responsibility of the customer, there are nevertheless a few situations in which the customer accepts or bears responsibility for this misunderstanding and wishes not unreasonably to cancel as a result – cases in which there is no hint that the GP has acted anything but appropriately. Other Customer Issues were caused by:

- customers misunderstanding the validity of a verbal contract;
- decisions being made by unauthorised parties, for which the customer, and not the GP, was responsible; and
- customers agreeing to accept transfer but not being happy with the products subsequently, though not as a result of being misled.

Results of step 2: the evaluation of GP data only.

22. The next step was to evaluate the GP data using the new framework, and to allocate appropriate verdicts to the cases. The breakdown of results at category level A is as follows:



23. The pattern of cases at category A level evidently differs considerably upon examination of the GP data. There were 78 cases deemed to be slams, 15 cases of misconduct and 17 cases of mis-selling, making a total of 110 cases which could be considered to fall under the general heading of unfair trading – exactly 50% of the 220 cases examined. This compares with 69% of cases judged only on the BT data.
24. Incidences of mis-selling were more or less the same (17 instances against 13 based on the BT data). Misconduct, on the other hand was found to be much more prevalent, with 15 cases against 4 when judged on the BT data. This change reflects the greater ability to analyse the character of a sales call when listening to a recording. It is harder to allege misconduct on the basis of a reported complaint. It is also likely that in some cases customers played down the nature of an unpleasant sales call when calling BT,

or were unaware of its precise nature. Several of the calls reported to BT, for example, were logged by the relatives of elderly people. They tended to complain about transfer being made without permission, as opposed to complaining about the characteristics of the call itself. When listening to the recordings, Schema was able to review such characteristics as if at first hand, and it was clear that the attitude of sales representatives towards certain elderly or disabled customers constituted misconduct. There is of course nothing wrong with selling to someone of any legal age, but there were clearly cases in which a customer's hearing, understanding or linguistic ability were evidently impaired and in which it was far from appropriate to continue with a sales call, let alone to record it as a valid sale.

25. Incidences of slamming, on the other hand, were far lower than when judged on the BT data (78 cases versus 135), as were cases of BT Issue (15 cases, versus 45 before). The latter can be explained partly by a reclassification of some of the cases previously categorised as BT Issue. As mentioned above, 23 cases were called BT Issue, on the BT data alone, because of the lack of recordings provided by BT in cases where the GP had provided full information. But it was possible to classify these cases in this step of the process, since the focus has shifted to an analysis of that very GP data. Other BT Issue cases were reclassified because in the light of the GP data a different perspective on their evaluation was possible; many of them became cases of Customer Issue.
26. There were 90 cases of Customer Issue using the GP data (compared to 15 before). The increase was largely linked to the decrease of slams. The reasons for this lie at the heart of the main issues relating to unfair trading identified in this research. Essentially, many of the cases which looked like slams based on the evidence presented to BT took on a different hue in the light of information about the original sale. Broadly speaking there are two main factors behind this change:
27. Firstly, there are customers who clearly agreed to service originally, but who ring BT to cancel service on the basis that this did not happen. In some of these cases the customers deny that they have ever had contact with a service provider, but a recording of the sales call reveals that they did have such contact, and that the sale was perfectly clear and valid. There is no doubt that in some cases this conversation has slipped the customer's mind; in others it may not have, but is nonetheless denied. In other cases the customer has told BT that it did have contact but did not agree service. Again, some of these instances are contradicted by the recording of a clearly completed sales call. In other cases completed contracts, which are evidently for CPS services and contain no ambiguities, also contradict the customer's statements to BT.
28. Secondly, however, there are many instances in which people admit contact with a service provider and genuinely believe that they have not made a contract or agreed service, when in fact – unwittingly – they have. These people are being caught out by a particular sales approach used by several of the GPs, that of selling on cancellation. This technique is of questionable validity but is not at present technically an instance of unfair trading. By this approach a customer will typically be persuaded to accept a “welcome pack”, which the customer may understand is providing information on the service. Many customers are interested in receiving such information, because the tariffs explained to them often sound attractive. And understandably they wish to see information first, before agreeing to take the service. However, the welcome pack does not just provide information. It also represents the first step in the transfer process. At the same time as agreeing to accept the welcome pack, customers are told that if they do not want to go ahead they can cancel at any time within a period of ten working days. The implication of this, often clearly explained, is that if they do not call to cancel, their service will be transferred. Even though this is explained, and therefore cannot

strictly be called mis-selling, customers still have it in their minds that they have not yet agreed to service and that they will make such a decision once they have received information. In reality, perhaps often without wishing to, they have agreed to transfer their service, subject to their right to cancel.

29. As a result, many customers call BT and claim that they requested information only; then a sales call reveals that they agreed not only to that, but that it was incumbent on them to call if they wished to cancel. Often the GPs do not help themselves here, since the letter of transfer from BT advising the customer that they are leaving BT often arrives before the welcome pack. So, one minute a customer thinks they have asked for information; the next they receive notice of impending transfer from BT. However, despite customers' understandable indignation and feeling that they have been subject to "sharp practice", technically the GP has not done anything at present contrary to regulations. It is clear that a tightening of regulations and stricter guidelines about the use of this approach (or banning it), would prevent this technique from being exploited as it is at present, to the dissatisfaction of customers.
30. As a result of all these factors, based on the GP data, Schema recorded 39 instances against the category C of "customer denies agreeing contract, despite evidence of agreement."
31. Misunderstandings as to whether a sale has been made or not, and the customer bearing responsibility for that misunderstanding, are not aided by the fact that many customers do not understand that a verbal agreement is valid. Many times on calls to BT, customers made statements such as "...and anyway, I haven't signed anything" – even in some cases admitting they did say yes verbally. In spite of their obligation to cancel being explained, many customers still believe that, whatever they are told, nothing is going to happen until they get a piece of paper in their hands, sign it and send it back. It is perhaps fair to say that such misunderstandings are more prevalent amongst less wary, older customers. It was noticeable from the recordings that many of the customers were clearly elderly. Whilst Schema has not gathered detailed data on the age of the customers heard on sales calls it believes that well over half of them were elderly.
32. However, whilst there is evidently some skilful manoeuvring of customers into unwanted sales, it should also be noted that in the employment of the above techniques there is a fine line between the customer unwittingly bearing responsibility under present regulations, and the GP being deceptive. And, in selling on cancellation, sales agents often cross the line. In some cases this meant not making it sufficiently clear that it was incumbent upon the customer to call to cancel, rather than to call to agree. In other cases, customers would stand firm and not state that they were agreeing to sale unless they cancelled, and would repeat that they only wanted information. Some sales representatives make the mistake of saying also that the customer "is not entering into any contract", or "is not going ahead with anything". In all such situations to transfer was evidently wrong, and the transaction designated a Slam.
33. Other practices which come close to the fair/unfair line were carefully scrutinised by Schema in making its decision as to how to categorise a sale. One common reason for claiming a mis-sale to BT was that customers were told that the company was BT – or this was strongly implied. An examination of the sales calls reveals that many sales representatives make liberal mention of BT within their sales pitches, often without ever stating directly that they are working for BT. For, example a sales representative may begin a call by asking a customer if they are the BT account holder, if they have a BT line and by congratulating them for being a BT customer. Often misleading

statements will be made, telling the customer that the offer is one only available to someone with a BT line, or even as a reward for being a loyal BT customer. The use of this technique is evidently misleading in some cases, but in others it is subtly done. It is hard to claim there is anything wrong with asking someone if they are the BT account holder (in fact it should be asked), or if they have a BT line. Yet such questions can help to foster an impression in the unwary customer that they are talking to BT.

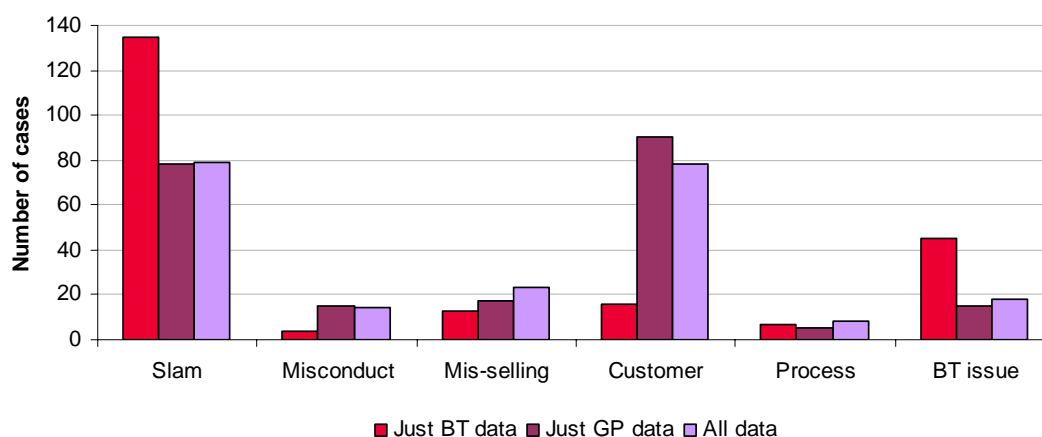
34. Often, the GP representative will state the name of the SP company or the service he is representing in amongst such statements. However, whilst this is admirable, in the context of so much mention of BT, the impression taken on board by the customer can be that this is a service or package which has something to do with BT. Several customers stated to BT that they thought the service mentioned by SP was just another tariff package like "Friends and Family."
35. This false impression can also be strengthened by the fact that GP representatives often appear to be very familiar with the details of the customer's BT bill. They will read all the address details with precision and confirm the name on the BT account. They will estimate the customer's monthly telephone spend, often accurately, and discuss the ins and outs of Option 1 or 2 – and the customer will assume the representative has the customer's BT account information in front of them. The representative has not stated this, but it is the natural inference.
36. Indeed, customers are then often surprised when the representative asks for their bank account details to register them for the new service: the customer thinks the representative, being from BT they assume, already has them in their system. Representatives will often explain that this is for "verification purposes" or "to check that your account will take a direct debit". Sometimes they will misleadingly say that it is never possible to see existing bank details "for data protection reasons." The customer can thus be made to feel secure about giving information they would not be giving if they fully understood what was going on. In doing this, representatives sometimes are deceptive, and their behaviour creates an unfair trade; in other cases they stay on the right side of a dubious line.
37. Of course, at some stage it is important to clarify what exactly is happening and that the transfer of service from BT to another service provider is the issue. If this is not done clearly somewhere on the call, then it is a case of unfair trading.
38. However, the manner in which it is done also has an impact, and must be judged in the context too of what has come before. Several companies operate a quality assurance (QA) process at the end of calls, by which a separate agent will come on the line and confirm all the details agreed by the customer. This practice is commendable, but whilst in many cases it acts in the customer's favour, in other cases it can help to justify a sale which really should not be valid. For example, it can be the case that a strong impression is initially created that the options the customer is discussing have something to do with BT. Ten minutes later when the customer is running through their details ("for their own security") for the third time with an agent conducting QA, they are asked "if they understand that x is an independent company, separate from BT and that they will bill the customer separately for their calls". At this point the customer is keen to finish the call, thinks they know what is going on and so says "yes". Of course, if the customer has accepted such a statement (sometimes twice or more), then it is hard to allege a mis-sale – whatever impression had been created up to that point. The representative has complied with the letter of the law. However, listening to the call one still has the impression that the customer does not understand the truth though it has been explained.

39. Sometimes the customer will be asked a series of apparently important questions to which the answer is yes – e.g. is this your date of birth? is this your password? is this your postcode? – followed by a final question regarding their agreement to transfer (sometimes spoken rather quickly). They will say yes again, as if by rote. In fact, in some cases one can almost sense a watershed has been crossed in a call, after which point the customer just says yes to everything. It is not right in these situations, if nothing overtly wrong has been done by the representative, to allege unfair trading. It could be argued that this is in fact good selling, or good salesmanship at least. And whilst some representatives are clearly very honest and open with the customer, other representatives are clearly very good at selling. There is often a very fine line between a good sale and unfair trading, and the characteristics of each individual call are important to evaluate. This is something to be borne in mind when considering how much credence to attach to the complaint made by a customer to BT. In many cases whether or not unfair trading has occurred is a complex consideration, and a judgement as to whether a case falls on one side of the divide or the other requires access to both sides of the story.

Results of step 3: the evaluation of all data

40. The final step was to evaluate all the previous data using the new framework, and to allocate appropriate verdicts to the cases. The breakdown of results at category level A is as follows:
41. As can be seen from the pie chart above, the division into categories based on all data follows broadly the same pattern as that of the division based on the GP data alone. This is understandable: starting from the premise that a call is an unfair sale, introducing the sales material leads to a qualification of that position, which, with no further facts to be revealed, sits close to the final evaluation. In other words if a customer says they never had contact with a GP, and the recording reveals they did and agreed a sale, thus altering the classification, then the final verdict considering both sides is going to come to a similar conclusion – that the issue is to do with the customer, not a fault of the seller.
42. However, some minor but important differences are notable, and qualify the above example slightly. The differences can be observed in the graph below, which shows the changes in categorisation of UTI cases across steps 1, 2 and 3:

Schema analysis of 220 full cases - summary



43. Incidences of slams are very similar in number, but it is notable that there are 12 fewer incidences of Customer Issue. This is linked to an increase in incidences of mis-selling – 6 more than with the GP data alone. This change represents a rebalancing of the verdict towards siding with the original customer position, bearing in mind not just the facts of agreement, but also the customer's story behind a transfer. For example, if the GP presents a copy of a contract signed by the customer that appears to be valid and clear, then on the basis of the GP data alone it is hard to justify unfair trading. In such a case, during the evaluation of the GP data, a category of "customer denies agreeing contract despite evidence of agreement" would be allocated. However, in reviewing the case and revisiting the information, it might be that the overall picture is one whereby the customer has signed a contract, but the manner in which they were made to sign such a contract constitutes mis-selling. In most cases, when judging both sides of the story, the evidence speaks loudest; in a few cases, the evidence may suggest a good sale, but if the customer's version of events does not contradict this, it can add a different perspective on how things happen. As mentioned, in approaching its categorisation, when in doubt Schema will choose the category closest in line with the interests of the aggrieved customer.
44. The changes to Process Issue (3 more than with GP data) and BT Issue (3 more) reflect a similar kind of rebalancing – cases in which the GP data presented a perspective putting the burden of responsibility on the customer, but which on examination of the picture overall seemed to be more fairly considered to be a question of process or BT behaviour – as originally determined from the BT data.
45. Overall, it is evident that there is a great difference between the amount of unfair trading that is apparent when judging from the BT data alone and when doing so based on all the data. This reflects the fundamental flaw in using BT data only to judge the fairness of trading. In order to judge the fairness of trading properly, it is necessary to evaluate good data on the sales process rather than relying solely on feedback from the customer – particularly as this feedback is being given to an interested, rather than neutral, party.

The spread of the final data across category C types

46. So far in the analysis of why cases have been categorised in a certain way, Schema has made reference principally to the allocation of cases to a particular category A: Slam, Mis-selling, Customer Issue etc. This section aims to look at the final decisions made on cases and to show what numbers of cases fell into categories at the B and C level. Each of the headings below includes a table showing the subcategories C within it and how many cases were allocated to that category.

Category B: No Contact with GP and no contract made

CATEGORY A	CATEGORY C	Number of cases
Slam	Person not present (e.g. not in country, on holiday, deceased)	0
Slam	Not spoken & no one in household or company spoken with GP	3
Slam	Number mistakenly transferred (e.g. from a previous account)	1
Slam	Transfer from IA (dialler or prefix)	1

47. Schema believes that it is interesting to note the relatively low number of cases which fell into this B Category, representing cases in which there was no contact at all with a service provider. In only three instances did there seem to be no evidence whatsoever from either the customer's account to BT or the data provided by the GP that there had been any contact. One could argue that perhaps in other cases where the GPs did not provide any data, that these incidences might be more common. However, it does seem to be the case that pure slams involving no customer contact at all are relatively rare. In most cases the customer has had some contact, however fleeting, with a GP either by phone or in a retail outlet.
48. It should be noted that one can perhaps infer this fact from the attitude of BT representatives. In cases where a customer alleges no contact at all, a BT representative will often probe the customer – sometimes with an almost disbelieving tone – to verify that this is indeed the case. Upon this commendable questioning, the customer will often reveal that they did indeed recently purchase a mobile phone, receive a representative at the door or take a phone call. Even if this contact was brief and they did not apparently involve any transaction, it is usually the case that some form of contact occurred.

Category B: Contact with GP but did not agree CPS contract

CATEGORY A	CATEGORY C	Number of cases
Slam	Told GP did not want to change	8
Slam	Did not tell GP wanted to change	1
Slam	Non decision maker told GP needed to speak to decision maker; no agreement for service given	2
Slam	Requested information only	37
Slam	Purchased another service e.g. digital TV, utility or mobile	1
Slam	Purchased another calls service e.g. international option	0
Slam	Thought they were signing for something else	1

49. This category B deals with just such situations where a customer has had contact, but did not express a wish to accept service. By far the most common situation is one in which the customer only requested information about CPS, but in which the GP goes ahead and transfers the service anyway. Much has been said already in reference to

the process of selling on cancellation, and in such cases the customer often thinks they have only asked for information, when they have agreed to more. But in 37 cases it was indeed proven to be the case that all the customer had asked for was information, and thus a transfer of that customer represented a slam.

50. There were also 8 cases in which the customer directly told the GP they did not want to transfer, but the GP transferred the customer in disregard of this fact.

Category B: Misrepresentation

CATEGORY A	CATEGORY C	Number of cases
Slam	GP said was part of BT/connected to BT	1
Slam	GP strongly implied was from BT	23
Slam	GP said was part of a different company (not GP, not BT)	0
Mis-sell	GP told lies about the competition	3

51. The interesting finding about incidences of mis-representation is that in only a single case did the GP actually purport to be BT or an affiliated organisation – although this claim is often made by customers and recorded by BT. However, perhaps a subtle distinction is being made here, as this does not mean to say that customers are not being fooled into thinking that the service is being provided by BT or an affiliate. It is rather that this impression tends to be created indirectly, if very strongly, in the minds of customers, rather than as a result of a direct statement. The distinction here is an important one. Without it, GPs can claim in defence of their sales that “the representative did not say he was from BT” – and this defence would be correct. However, by implication the same effect is achieved with the same consequences and connotations.
52. There were relatively few instances – only 3 – of GPs telling lies about the competition – such as the fact that BT was going out of business or was ceasing to provide a calls service, for example. The recording of sales calls perhaps prevents this kind of outright lie from happening – just as it does direct misrepresentation. However, it might be the case that such deceptive practices are more prevalent on the doorstep, where a record of the sales pitch is not verifiable.

Category B: CPS contract agreed without full understanding / acceptance

CATEGORY A	CATEGORY C	Number of cases
Mis-sell	Customer was told line rental included in CPS	0
Customer	Offer was not what the customer wanted/understood	1
Customer	Web click through: customer not happy with package selected on web	1
Mis-sell	Web click through: customer mislead by package agreed on web	0
Mis-sell	Misinformed regarding service costs/features	1
Mis-sell	Special offer did not materialise	0
Mis-sell	Customer did not receive information promised	4
Mis-sell	GP said could only send information if customer agreed to contract	0
Mis-sell	Misleading/inadequate information given about transfer and billing	9
Mis-sell	Customer accepted service as told existing service (e.g. International) no longer exists	1
Mis-sell	Customer agreed on the basis of false information	1
Customer	Customer thought the GP was BT	10
Misconduct	[GP aware that] customer not capable of understanding the offer (thru ill health, general infirmity)	10
Misconduct	[GP aware that] customer not capable of understanding the offer (language problems)	2
Misconduct	GP knowingly took advantage, pressurising vulnerable customer (though customer did understand)	2

53. This category deals with cases in which sales did occur, but in which they were agreed for reasons dependent on a lack of full understanding of what was agreed. Since transfer was agreed, even if now disputed, none of these categories is called a slam.
54. In ten cases the customer thought that the GP was BT. As mentioned above, there is a subtle distinction between the customer being given this impression deceptively and assuming it through their own misunderstanding. There were, however, a number of cases in which the GP representative had stated very clearly that the GP was independent of BT and it was fair to assume this was understood. Yet the customer often complains they did not in fact understand this. This cannot always be the GP's fault.
55. There were also 10 cases of misconduct involving taking advantage of people with an evidently impaired ability to make a decision. These were largely elderly people, who were not just evidently elderly, but also struggling to understand, and in some cases clearly stating so or declining service several times.
56. There were 4 cases in which mis-selling was decreed because the customer did not receive the information promised. This situation again tends to relate to a sale on cancellation position. If the customer has accepted transfer, on the basis that they can

call to cancel when they receive information (as a “welcome pack”) then it is important that they receive that information. If they do not, then since they have agreed to transfer it is not appropriate to record a slam. But in failing to provide literature promised as a condition of accepting that position, they have mis-sold.

Category B: CPS Contract not with authorised person

CATEGORY A	CATEGORY C	Number of cases
Mis-sell	GP aware not speaking to authorised person	3
Mis-sell	GP aware not speaking to account holder, but made no effort to check if person authorised	1
Customer	GP thought they were speaking to authorised person (spouse/partner/other)	1

57. There were relatively few incidents in which the categorisation hinged on authorisation. This is mostly because a commendably flexible attitude to the identity of the authorised decision maker were employed by both BT and the GPs. In most cases a customer would complain about the transfer or decision made, not about who made it, with these few exceptions.

Category B: cancellation of orders

CATEGORY A	CATEGORY C	Number of cases
Process	Customer requested cancellation from GP but customer says no action taken	1
Process	Customer requested cancellation from GP but GP is unable to cancel	4
Process	Customer requested cancellation from GP but GP is refuses to cancel	1
Process	Customer does not know how to cancel order with GP	0
Process	Customer does not know how to get in touch with GP	1
Process	Customer cannot cancel with GP, because BT has implemented call barring	1
Customer	Customer changes mind	15
Customer	Customer gives no reason but wishes contract cancelled	1
Customer	Customer denies agreeing contract/transfer (despite evidence of agreement)	40
Customer	Customer unaware order made by other authorised person	5
Customer	Customer made a (verbal) contract, wishing to review and possibly cancel	3
Customer	Customer signed/agreed a contract, but wanted information only	1
Customer	Customer did not think a verbal contract was binding	0
Customer	Customer wishes to cancel gives incapacity as reason e.g. old/ foreign (GP not aware)	0
Customer	Customer cannot remember if spoke to or agreed to contract, and wishes to cancel	0
mis-selling	Customer wishes to cancel as felt pressurised into contract	0
Misconduct	Customer wishes to cancel as felt threatened into agreeing to contract	0

58. The most significant category by far under this BT category – that in which the incident has been recorded in relation to a customer's wish to cancel – was "Customer denies agreeing contract/transfer (despite evidence of agreement)". Much has already been said on the sale on cancellation process and on the fact that in many cases customers might not realise they have agreed to take a service, when the GP evidence reveals that in fact the sale was valid. This situation tends to result in a lot of customers cancelling. BT typically records such incidents as a UTI – and reasonably so, if judging only from the information given to them by the customer. But once in possession of both sides of the story, such incidents cannot be put down as mis-selling if the original sale was technically acceptable.
59. There were 15 cases of customer mind change, a situation again in which the BT representative would in many cases not be able to tell that this is the true reflection of the customer's behaviour. But in some cases of clear acceptance and clear reversal of decision, this is the only appropriate category if all the information is possessed.

60. There were 5 cases of customers cancelling because they thought an order had not been made, and that they had been slammed. However, examination of the customer data revealed that another authorised decision maker had made the order legitimately and that no mis-selling occurred. In one of these cases the customer contacted Schema directly to register her mistake. Her call to BT to complain about no knowledge of any agreements had been indignant; yet she subsequently discovered that her head office had agreed the transfer without informing her.
61. There were three cases of "Customer made a (verbal) contract, wishing to review and possibly cancel". In this situation the customer was almost certainly intending to cancel the transfer, and was clear that they would have ten days to do so. They accepted this position because the GP representative was selling from this viewpoint, and were happy to do so, not believing having to make such a cancellation call to be a problem. When they subsequently cancelled, it was thus not as a result of any deception by the GP. In such situations the customer tends not to explain to BT that this is the reality – though it is evident from the sales call. BT thus records a UTI, when possession of the full story shows no mis-selling occurred.

Inappropriate behaviour by BT

CATEGORY A	CATEGORY C	Number of cases
BT Issue	CPSO to CPSO (both non-BT)	12
BT Issue	BT introduced CPSO name (not reseller), leading customer to cancel	0
BT Issue	Customer requested cancellation from GP but BT says no action taken	4
BT Issue	BT persuades customer to cancel transfer, and provides no evidence of mis-selling	1
BT Issue	BT cancels service as non bill payer made order (when by its rules, non bill payer is authorised)	1
BT Issue	No complaint or issue recorded	0
BT Issue	BT representative fails complete or comply with UTI procedure	0
BT Issue	Customer complains to BT about mis-selling before evidence of transfer	0

62. There were 12 cases in which the transfer involved a case between two CPSOs, where BT was not the company providing a calls service to the customer. As commented, a CPSO-CPSO transfer should not involve BT Retail, but the problem is that the customer often calls BT to resolve issues even when this is the case. In some cases they have been referred to BT by the customer's CPSO itself. However, observing a strict definition, such cases should not be UTIs, even if the second GP has traded unfairly, and recording them as such represents inappropriate behaviour by BT. There were 4 cases in which BT informed the customer that the GP was failing to cancel service, and recorded a UTI as a result. This inappropriate action by BT has already been commented on above.

Section 6

Key issues and conclusions

Introduction

1. The key research objective of this study is to establish how accurate a reflection of mis-selling is given by the UTI data. Although we have not found malicious construction or allocation of the UTI data by BT, Schema's research shows that the UTI data is not an accurate reflection of unfair trading, since only 53% of the cases examined proved to be slams, mis-selling or misconduct. The main reason for this is that BT is relying on evidence of unfair trading provided by the customer. As the discussion in the previous section indicates, the evidence provided by the customer in many UTI cases does not support the actual situation recorded in the original sales call.
2. Importantly, the data evaluated from both BT and the service providers gave a strong indication of the key service, customer and process issues surrounding the purchase of alternative fixed line telephony services. These key issues are highlighted in the sections which follow.

BT issues

3. The majority of BT customer data reflected compliance on the part of BT with agreed industry processes. There was a significant number of agents who made great efforts to ensure that the customer was firm in their story. These agents ensured the customer definitely had a right to generate a UTI and to cancel the transfer via BT (rather than the GP). For example, when a customer stated that they did not remember talking to anybody, the agent would inquire as to whether the customer had bought a mobile phone or digital TV recently, or whether someone else in the household could have agreed to transfer.
4. However, although inappropriate behaviour by BT representatives was in the minority, there were some issues of concern. Some examples are given below:
5. **CPSO to CPSO transfers.** BT accepted these calls and cancelled at least one of the SP's orders. In some of these cases BT cancelled all SP orders and returned the customer back to BT. Schema has not analysed allegations of mis-selling by one SP to customers of another SP, as the purpose of the research was to analyse UTIs recorded by BT as one of the contracting parties. BT did not refer these incidents to customer's existing service provider.
6. **GP cancellation.** BT representatives gave the impression that they had a detailed knowledge of cancellation processes and had access to real time data. BT implied that they were aware as to whether a customer's cancellation request had been processed by the GP. It is unclear as to whether BT agents do have access to real time data (Ofcom has indicated to Schema that they do not).
7. **BT agents on several occasions failed to ensure that the request complied with the "Cancel Other" direction.** Indeed some agents proceeded with Cancel Other merely based on the customer requesting the transfer be ceased – there were no follow up questions.

8. **CPSO Identity.** BT managers did not always use agreed language when giving out the name of a GP's CPSO. This was rare, but in such cases did cause confusion. It should perhaps be noted that even if the correct language is used, the name itself can create an impression in the customer's mind that is stronger than that of the words qualifying the interpretation of that name.
9. **BT agents did not correct customers' misplaced reasons for ceasing the transfer.** For example, a WLR customer who asked to cease his transfer as he did not wish to lose his CLI or entry in the telephone directory did not have this misapprehension corrected.
10. **Only used Cancel Other.** BT representatives were not aware of other processes available to the customer e.g. emergency cease, requesting the GP cease the service. There were only a few cases in the sample that did not lead to a Cancel Other.
11. **Telephone Preference Service (TPS).** Advice on joining the TPS was offered to a number of customers by BT agents. This was to ensure that customer's details would not be available to telesales entities. This was typically offered in cases where vulnerable members of the public were being pestered by numerous telephone sales calls. However, although this is a useful consumer protection measure, and did seem helpful advice in situations of customer distress, it also provides competitive advantages to BT as the current provider. Schema felt that tighter guidelines should be introduced to determine when it is appropriate to provide this information.

GP issues

12. The analysis of the Schema data can not in all cases be compared against the GPs' own analysis of the data as this was not requested from the GP. However in some instances the GPs did provide their own "verdict" on the information they provided (such as a phone recording or transcript). Schema found that several verdicts of "good sale" were in fact examples of mis-selling. This raises concerns that the mis-selling cases are not just due to the actions of individual agents, but are supported by the company.
13. As mentioned previously, the Schema analysis of the complete case based upon all data closely matches the Schema analysis of the GP data alone. The main reason for this is the inconsistency between what a customer tells BT and the sales evidence from the GP. A clear example of this is incidents when the customer tells BT that they have never had contact with a fixed line service-provider whilst the GP's recording has the same customer clearly accepting and making a contract.
14. Off-shore call centres, UK call teams, field sales agents, the internet and direct mail were all channels that were represented in the sample. The main channel of sale was by UK call centre. There was a wide variation in compliance from company to company and even, within any one company, between agents. The main areas of concern from analysing the GP data were:
15. **Selling on cancellation.** Some service providers frequently sold on cancellation. Whilst, if properly carried out, sales performed this way cannot technically be called mis-selling, customers are nevertheless being coaxed into a situation where they have accepted service without realising this. It is notable that the companies that most frequently used this sales tactic were responsible for the largest number of UTIs from the sample.

16. **Ten day “peace of mind guarantee”.** In conjunction with the selling on cancellation approach several companies are promoting mandatory 10 day switch-over period as if it is a customer service benefit of their own invention. One SP, for example, called it the “ten day peace of mind guarantee.” This creates a false impression, when it would be more in the customer's interest to understand the transfer process and their mandatory rights in plain language.
17. **The “Quality Assurance” process.** Several companies conduct a process of Quality Assurance at the end of a call. This involves a manager speaking to the customer to verify details and confirm that the customer understood they had agreed to transfer. Use of this QA technique placed many sales into the “Customer Issue” category, when previously there had been insufficient understanding to make the call constitute a valid sale. However, whilst this is commendable and when done properly represents good practice, there were several incidents where the QA process was also misleading and the manager assumed a customer agreement which was not actually given. Moreover, since the QA process is often performed at the end of a lengthy call, it can mean customers accept statements thought lack of concentration, which end up verifying a sale they did not wish. Whilst QA can be a valid part of a good sales call, Schema would like to emphasise that it is also important for key facts regarding transfer and the nature of the selling company to be clearly established and verified at the start of the call, not just the end.
18. **The provision of a Welcome Pack.** The “gaining letter” and associated materials were often described as a Welcome pack or Information pack or further details, dependent upon what the customer requested. There was little consistency. Many customers had felt that they had requested further information rather than having been sold upon cancellation. They also believed that the 10 day cooling off period allowed them the chance to decide to go ahead by signing something, not the chance to cancel the verbal go ahead (they had unknowingly given).
19. **Impression that provider was BT.** Many agents gave the strong impression that they were from BT:
 - “get your BT digital discount”;
 - “only available to BT customers”;
 - “remain a loyal BT customer”; and
 - “working with BT to offer you cheaper calls”.
20. Implying that the company was part of BT was a practice used by many of the agents of the GPs. It is difficult to assess from the recordings whether this was standard practice or devised by individual agents to encourage customers. Although the opening line, “I'm calling regarding a free service for BT customers” was rather too common to be purely attributable to individuals; this line was also followed by different GPs. However, there were individual agents who went further and repeatedly distorted BT's position or stated they were part of BT, e.g. “BT is getting out of the calls business to focus upon broadband. We have been given their business”
21. **Direct Debit details.** Agents had a number of ways of requesting direct debit details from customers without stating that they were part of a new calls contract, for example:
 - “In case you go ahead we need to check that your bank will accept direct debits”;
 - and

- direct debit details were requested as part of a “pre-registration” process, when in effect it was part of an actual transfer.
22. **Linking the fixed-line service to mobile or other sales.** There were several instances where customers had bought other products and had been unwittingly signed up to CPS. This had happened in conjunction with mobile purchases, as well as when buying fixed handsets in a particular store, and subscribing to digital TV services.
23. **Vulnerable consumers.** There were a number of incidents which concerned customers whose first language did not appear to be English. Although the number of cases was not statistically significant, the agents did not seem to ensure that there was full understanding from the customer.
24. **Elderly customers.** Many “vulnerable” cases applied to older customers. One SP appears to have a “no sale to over 70s” policy – although one agent did not appear to have complied with it. All of the other GPs had several sales calls during which an elderly customer was clearly confused and usually thought they were talking with BT or did not understand the selling on cancellation process. Although it is difficult to regulate on this issue, it is clear that some agents took advantage of older customers. In these cases typically:
- the customer made it known that they were hard of hearing;
 - the customer told the agent that usually their son/daughter made these decisions;
 - the customer answered “yes” to everything even when it was clear they did not really understand; and
 - the customer told the agent that they were elderly/retired and sometimes got confused.

Customer issues

25. Upon analysis of all data it was apparent that the Customer Issue category is much more significant than suggested by looking at BT's UTI data alone. There were two principal situations which lead to a case being allocated to this category: customers who had forgotten a sale or changed their mind; and those who did not believe they had agreed a sale – but who the evidence showed had in fact agreed. Often this was again down to the sale on cancellation approach, and there is no doubt that this and some other factors to do with the sale of services are creating customer confusion. Some examples of factors contributing to this are as follows:
26. **Nature of contracts** Many customers, and nearly all the older customers, did not believe that it was possible to make a contract over the telephone. In the majority of these instances the customers believed that it was only a contract if they had signed a piece of paper. These customers were particularly prone to misunderstanding the selling on cancellation process; believing that nothing would go ahead until they had received a paper contract to sign. They did not appreciate that they would have to ring to cancel (the verbally agreed contract) once they received the “Welcome Pack”.
27. **Line rental** There was general confusion over the relationship between line rental and calls: who provides each; and how these would be billed. This did lead to the sales message “you remain a BT customer” being interpreted by customers that the GP providing the calls was part of BT; offering just another call package like Friends and Family or Option 1. It should be noted that there was a fine line between agents who

tried to clarify this for customers and those using the fact that customers remain with BT for line rental to deliberately imply connection with BT.

28. **Bank details** One of the most remarkable findings was that many customers, having refused a service or asked for information only, would then give out their full bank details. Once again this was particularly the case with older customers (some of whom did not realise that bank details without a signature could be used). However it should be noted that in many cases the bank details were given because the customer believed they were talking to BT. This trust in BT, especially by older, loyal customers, is clearly open to abuse by unscrupulous sales agents. Without the bank details it seemed some GP agents were unable to claim a sale. Hence there is pressure throughout the calls to obtain these details.

Annex 1

Criteria defining Schema categorisation framework

Category B: No Contact with GP and no contract made

CAT A	CATEGORY C	CRITERIA
Slam	Person not present (e.g. not in country, on holiday, deceased)	* customer had no contact with GP; * customer physically absent at time of sale
Slam	Not spoken & no one in household or company spoken with GP	* customer has no awareness of contact with GP; * GP provides no evidence that customer agreed to service
Slam	Number mistakenly transferred (e.g. from a previous account)	* number mistakenly transferred by GP, without the customer's knowledge
Slam	Transfer from IA (dialler or prefix)	* customer's existing IA service transferred without due notification or permission

Category B: Contact with GP but did not agree CPS contract

CAT A	CATEGORY C	CRITERIA
Slam	Told GP did not want to change	*customer had contact with GP; * customer told GP that did not want to transfer
Slam	Did not tell GP wanted to change	* customer had contact with GP; * GP transfers customer; * customer did not tell GP wished to transfer
Slam	Non decision maker told GP needed to speak to decision maker; no agreement for service given	* GP spoke to non-decision maker; *non-decision maker made no agreement; * non-decision maker referred GP to decision maker
Slam	Requested information only	* customer had contact with the GP; *customer agreed/requested information only; * customer did not agree to transfer service
Slam	Purchased another service e.g. digital TV, utility or mobile	*customer agreed other service with GP; *customer did not agree to take up CPS
Slam	Purchased another calls service e.g. international option	* customer agreed other call service with GP; * customer did not agree to take up CPS for all calls
Slam	Thought they were signing for something else	* customer given the impression they were signing a contract for something different; * customer did not know transferring to CPS

Category B: Misrepresentation

CAT A	CATEGORY C	CRITERIA
Slam	GP said was part of BT/connected to BT	* customer was told GP representative represented BT or a company operating on its behalf; * customer did not think a transfer to separate company was involved
Slam	GP strongly implied was from BT	* GP representative did not directly say was from BT; * GP implied the service was associated with BT; * GP implied no transfer involved
Slam	GP said was part of a different company (not GP, not BT)	* GP falsely claimed to be operating on behalf of a third company (not BT or actual GP)
Mis-sell	GP told lies about the competition	* customer agreed/signed a contract with the GP; * customer agreed to transfer on the basis of false information about BT (or other competitors)

Category B: CPS contract agreed without full understanding / acceptance

CAT A	CATEGORY C	CRITERIA
Mis-sell	Customer was told line rental included in CPS	* customer falsely told by GP that line rental included in price/ package
Customer	Offer was not what the customer wanted/understood	* customer made assumptions about the product which proved false; * customer was not misled in the formation of these assumptions
Customer	Web click through: customer not happy with package selected on web	* customer agreed transfer on the web; * customer misunderstood the package ordered; * web information not misleading
Mis-sell	Web click through: customer misled by package agreed on web	* customer agreed transfer on the web; * customer misled by information on the web; * reality of service different from that promised
Mis-sell	Misinformed regarding service costs/features	* costs and/or features of package/service sold differ from those of the product delivered
Mis-sell	Special offer did not materialise	* customer agreed transfer on basis of special offer; * special offer does not materialise
Mis-sell	Customer did not receive information promised	* customer was promised information to review decision to transfer; * transfer undertaken without having received the information
Mis-sell	GP said could only send information if customer agreed to contract	* customer agrees to transfer as told can only receive information if transfers service
Mis-sell	Misleading/inadequate information given about transfer and billing	* GP fails to explain adequately the nature of the transfer process and/or the billing implications of transfer (e.g. two bills)
Mis-sell	Customer accepted service as told existing service (e.g. International) no longer exists	* GP implies transfer to CPS mandatory, because existing service are being replaced
Mis-sell	Customer agreed on the basis of false information	* customer agrees to transfer service on the basis of false and/or misleading information
Customer	Customer thought the GP was BT	* GP did state the name of the GP company; *GP did not state or imply GP company was part of BT; * Customer thought company was part of BT
Misconduct	[GP aware that] customer not capable of understanding the offer (thru ill health, general infirmity)	* customer incapable of understanding for health or age reasons; * GP representative aware of this fact; * GP refused to accept refusals from customer
Misconduct	[GP aware that] customer not capable of understanding the offer (language problems)	* customer incapable of understanding for linguistic reasons; * GP representative aware of this fact; * GP refused to accept refusals from customer
Misconduct	GP knowingly took advantage, pressurising vulnerable customer (though customer did understand)	* Customer clearly stated vulnerability to GP representative; * Representative refused to accept numerous refusals from customer

Category B: CPS Contract not with authorised person

CAT A	CATEGORY C	CRITERIA
Mis-sell	GP aware not speaking to authorised person	* GP made aware not speaking to authorised decision maker; * GP ignores this fact and continues to execute sale
Mis-sell	GP aware not speaking to account holder, but made no effort to check if person authorised	* GP made aware not speaking to account holder; * GP does not attempt to establish if respondent is an authorised decision maker; * GP continues to execute sale
Customer	GP thought they were speaking to authorised person (spouse/partner/other)	* GP given the impression that they were speaking to an authorised decision maker; * In fact, respondent is not authorised to make decisions on the account

Category B: cancellation of orders

CAT A	CATEGORY C	CRITERIA
Process	Customer requested cancellation from GP but customer says no action taken	* customer asked GP to cancel; * GP tells customer that cancellation has not occurred
Process	Customer requested cancellation from GP but GP is unable to cancel	* customer asked GP to cancel; * GP tells customer that it is unable to cancel the transfer
Process	Customer requested cancellation from GP but GP is refuses to cancel	* customer asked GP to cancel; * GP tells customer that it refuses to cancel the transfer
Process	Customer does not know how to cancel order with GP	* customer wishes to cancel transfer; * customer does not know how to go about cancelling the service
Process	Customer does not know how to get in touch with GP	* customer wishes to cancel transfer; * customer does not know how to get in touch with the GP
Process	Customer cannot cancel with GP, because BT has implemented call barring	* customer wishes to cancel transfer; * customer cannot contact the GP because BT has barred outgoing calls from their phone
Customer	Customer changes mind	* customer originally accepted transfer; * customer has changed their thinking and wishes to cancel transfer
Customer	Customer gives no reason but wishes contract cancelled	* customer originally accepted transfer; * customer gives no reason, but states that they wish to cancel transfer
Customer	Customer denies agreeing contract/transfer (despite evidence of agreement)	* customer states that did not agree to transfer; * Evidence shows that customer did agree to transfer
Customer	Customer unaware order made by other authorised person	* customer calling BT is unaware of any agreement to transfer service; * Evidence from GP or another party indicates that another authorised person did agree to transfer
Customer	Customer made a (verbal) contract, wishing to review and possibly cancel	* customer did not definitely intend to transfer; * customer agreed to a contract with GP; * customer accepted contract on basis that could review and possibly cancel
Customer	Customer signed/agreed a contract, but wanted information only	* customer has signed/agreed a contract with the GP; * customer intentionally signed only to receive information
Customer	Customer did not think a verbal contract was binding	* customer did not think they had agreed transfer; * customer thought a signature was required; * customer in fact gave a verbal agreement to transfer
Customer	Customer wishes to cancel gives incapacity as reason e.g. old/foreign (GP not aware)	* customer wishes to cancel, as decision made by someone with impaired decision-making capability; * Customer happy that GP not aware of this fact when executing transfer
Customer	Customer cannot remember if spoke to or agreed to contract, and wishes to cancel	* customer cannot remember of had contact with GP or agreed contract; * customer believes it is possible they did; * customer does not claim to have been misled by GP
Mis-selling	Customer wishes to cancel as felt pressurised into contract	* customer agreed contract; * customer wishes to cancel as felt unduly pressurised into making the decision
Misconduct	Customer wishes to cancel as	* customer agreed contract; * customer wishes to

CAT A	CATEGORY C	CRITERIA
	felt threatened into agreeing to contract	cancel as felt threatened into making their decision by the GP representative

Inappropriate behaviour by BT

CAT A	CATEGORY C	CRITERIA
BT Issue	CPSO to CPSO (both non-BT)	* customer already with a CPSO for calls; * customer enquiry related to a transfer to second SP; * matter should be referred to customer's existing SP
BT Issue	BT introduced CPSO name (not reseller), leading customer to cancel	* BT gives name of CPSO (not reseller) to customer; * having never heard of this company, customer is inclined to cancel service thinking has been slammed
BT Issue	Customer requested cancellation from GP but BT says no action taken	* BT cannot see cancellation from CPSO on its system; * BT assumes/tells customer that CPSO is failing to cancel; * BT wrongly registers a UTI, when no evidence of inappropriate behaviour from CPSO
BT Issue	BT persuades customer to cancel transfer, and provides no evidence of mis-selling	* BT representative persuades the customer to cancel transfer; * No evidence of mis-selling or inappropriate behaviour by GP; * BT representative registers a UTI without occurrence of unfair trading
BT Issue	BT cancels service as non bill payer made order (when by its rules, non bill payer is authorised)	* BT cancels transfer on basis of inappropriate decision maker; * By rules widely used (by BT and GPs), decision maker would normally be considered authorised; * no other legitimate basis for cancellation
BT Issue	No complaint or issue recorded	* No evidence or justification for registering a UTI; a UTI is registered
BT Issue	BT representative fails complete or comply with UTI procedure	* BT representative registers a UTI without following procedure; * insufficient data gathered by representative to justify a claim of unfair trading
BT Issue	Customer complains to BT about mis-selling before evidence of transfer	* customer rings to complain before they have evidence of unsanctioned transfer (e.g. immediately post sales call); * UFT registered by BT representative without evidence yet that sale or transfer will occur