

'Give us our cash back'

Thousands owed money as firms go under



He said: 'We're very scared. Essentially Orange is holding me into the "contract" although a fundamental element of the whole arrangement has changed.'

Which? contacted Orange and it has now agreed to release Rizwan from the contracts.

Problems to come

Birmingham trading standards officer Chris Neville said that retailers such as Dialamobile drastically underestimate how many cashback claims they will get.

He has seen at least six retailers go bust in the last 18 months and says that more are likely to face problems for the same reason. He is urging the networks to take more responsibility for the deals they make money from.

Kevin Patel, Managing Director of mobile phone dealer Chatterbox, claimed: '3 told us that only 40 per cent of people would claim the cashback, but 80 per cent did.'

A spokesman for 3 denied it would encourage dealers to assume only 40 per cent would claim.

Networks say they have no direct influence over offers set up by dealers.



Around 60,000 customers were owed £12 million in cashback when mobile phone retailer Dialamobile went out of business.

The customers were also trapped in airtime deals with one of the networks that some of them could not afford.

Rizwan Seedat (pictured above) took out two Orange contracts through Birmingham-based Dialamobile.

The cost of £80 a month was much more than he could afford, but Dialamobile promised it would give him all the money back over the 12-month contract.

'We're very scared'

Rizwan contacted Orange as soon as he learned that Dialamobile had gone out of business.

He asked Orange to release him from his contracts. It offered to reduce the cost to £50 a month, a saving of £30. This was still more than he could afford.

Rizwan said he was worried about what would happen if he didn't meet his monthly bill.

Too good to be true

Thousands of people have lost money through dubious mobile phone cashback deals

We all love being offered something for nothing – but such offers are rarely as good as they sound. This is true for many who sign up to a mobile phone cashback deal, where you pay upfront for a handset and contract and then claim some or all of this money back over the life of the deal.

This sounds great, but thousands of people have struggled to get their promised cash. This is either because the terms of the deal make it complicated to claim, or the firm offering cashback goes bust.

Which? wants these deals banned. And for those who are already cashback casualties, our lawyers have come up with ways to fight for the money you're owed.

What is a cashback deal?

When customers choose a cashback deal, they sign a contract for calls and minutes with a network such as 3 or Orange and a

cashback agreement with a phone retailer. The retailers, or 'dealers', work on behalf of networks, drumming up business for their airtime contracts. Dealers are paid commission by networks and put aside some of it for 'incentives' such as cashback deals to coax you into expensive contracts.

We receive hundreds of calls each month from members complaining they are unable to claim their cashback.

Complicated conditions

Customers often struggle to stick to the conditions they must meet to make a claim.

The conditions are often difficult to understand and have a very rigid timetable that customers must meet to qualify for the different instalments of their money.

In July, five networks promised to keep a watch over these offers when they signed up to a voluntary code of practice, endorsed by the regulator Ofcom, to reduce the number of people not getting cashback.



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New hope

Our advice on getting your money back

■ What if I don't meet the terms of a deal?

Many people are denied cashback because they don't meet minor terms of a deal – failing to tick a box, for example. You can challenge the term under the Unfair Terms in Consumer Contracts Regulations 1999. If you're successful, the condition is struck from the contract, leaving you free to claim cashback.

■ When did you find out the conditions?

If deal conditions weren't mentioned when you signed up but were sent later, there's a good chance they aren't part of your contract. Even if you don't meet conditions, the deal remains valid.

■ What if the retailer goes out of business?

Tell the network what has happened and ask if it will reduce how much you pay.

If the retailer owes you money, you may be able to claim against the network. A 'pay monthly' contract could be seen as a credit agreement under the Consumer Credit Act. It could be found to be

unfair if the network did not take reasonable steps to ensure retailers would be able to meet cashback obligations.

If the retailer led you to believe the cashback and airtime contract were part of one deal, you may be able to claim against the network on the basis the cashback is part of the airtime contract you have with them.

■ What to do next

If you feel a deal's terms are unfair, or your retailer goes out of business, write to the retailer or network with your claim. If this fails, you can take a case to the small claims court. See www.which.co.uk/cashback for more.



Tricky terms

The code states that mobile phone retailers shouldn't use 'unreasonable' terms such as banning customers from sending photocopied bills or ruling out customers with outstanding bills. It also said that customers should be given at least 60 days to post back bills to support their claims.

In October, we checked ten websites and found that the deals offered on six breached the code. The website e2save.com, which is part of the UK's biggest mobile phone retailer, the Carphone Warehouse, gave just 30 days for bills to be returned, for example. Ofcom admits the code isn't working and promised a review after getting a record 1,000 complaints in September. At its most extreme, the review could lead to a ban on these deals.

Cashback firms go bust

Even if you do meet the conditions of your deal, you have to hope the firm offering it will be around long enough to pay out. Many have gone out of business after underestimating the number of claims they had to pay (see 'Give us our cash back',

opposite). It's predicted that many more retailers will face a similar fate.

Which? says

We think mobile phone cashback deals that make customers jump through hoops to get their money should be banned. If cashback is offered, it should be automatic.

We informed the phone networks of the findings of our October investigation. They made the following promises about the conditions of the deals we found.

■ Orange and O2 told us they would get the terms changed immediately.

■ T-Mobile said it reserves the right to terminate the trading agreement with dealers found breaking the rules.

■ Vodafone told us that its terms wouldn't have changed yet because the code was still in its 'infancy' – cold comfort for people having to stick to these terms.

■ The 3 network has had bad publicity over cashback deals and we couldn't find any on its network. It said that through its terms of trading with dealers it had 'made it difficult for retailers to offer cashback that is hard to claim'.

YOUR STORIES



DOUBLE BLOW

The problems faced by Salma Mirza (above) illustrate the main issues with these deals. She chose a deal with Phoneboxdirect, which promised £472.50 back in five payments. She received £94.50 in May, but her next claim was refused, as the firm said she'd failed to circle the months she was claiming for on its form. This barred her from claiming again. Which? Legal Service began working with her to challenge this. However, the firm went out of business in mid-November, saying more people had successfully claimed cashback than expected.

JUMP THROUGH HOOPS

A Which? member 'jumped through hoops' to try to get cashback – only to find the firm he used had also collapsed. He went to the trouble of filling in a particular form for a particular month using only

original statements and submitted it within a set time period. However, the deal he chose was with coolmobile.co.uk, part of the same company as Phoneboxdirect. Our member is owed more than £600 – one of thousands of customers of the firm owed £10 million.



EMAIL BLITZ GETS CASH

Patrick Martin (above) sent Mobs.co.uk all the information it requested to get his £223.26 cashback and met all its terms and conditions. Despite this, he still had to send the company about 30 emails to get his money, which arrived three months late.

IT WAS EASY

Geoff Uttley (left) was happier than most people we spoke to. He received £150 cashback from the Carphone Warehouse in three instalments over a year. Geoff said: 'It was easier than I expected.'

