

Complaints about misleading or deceptive mis-selling conduct by i-CABLE sales people

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| Complaint against: | i-CABLE WebServe Limited ("i-CABLE") |
| Issue: | The complainants alleged that i-CABLE salespersons misled or deceived them into subscribing to i-CABLE's broadband Internet service. |
| Relevant Instruments: | Section 7M of the Telecommunications Ordinance (Cap. 106) ("the Ordinance") |
| Case Opened: | March 2004 |
| Case Closed: | March 2005 |
| Decision: | Case resolved |
| Case Reference: | T36/04 |

The Complaints

1. During the 8 months from February to September 2004, the Telecommunications Authority ("TA") received 65 complaints from consumers alleging misleading or deceptive sales tactics by i-CABLE salespersons involved in door-to-door/outdoor sales activities. The alleged practices are generally known in the industry as "mis-selling" which broadly describes conduct that "tricks" consumers into acquiring telecommunications services they would not otherwise choose to acquire.

2. It is often only after the consumer's original service provider notifies them that their service is being switched to another operator that the consumer realises what has happened. At this point the consumer may be required to pay an early contract termination penalty to their original service provider – or pay their new operator a penalty if they try to pull out of the contract they claim they were "tricked" into entering.

3. Of the 65 mis-selling complaints against i-CABLE received, staff of the Office of the Telecommunications Authority ("OFTA") obtained statements and

undertook preliminary inquiries into 33 complaints. The other complainants either refused to give further information or allow OFTA to disclose their details to i-CABLE during the course of investigation. Accordingly, we were unable to investigate these cases.

4. During the preliminary investigation process by OFTA staff of the 33 complaints against i-CABLE in this matter, 25 were assessed as raising a case to answer under section 7M of the Ordinance. The remaining 8 were found to be of lesser concern for various reasons, including a general lack of evidence, the possibility that the complainant failed to accurately recall events (or even fabricated their allegations) and the discovery of conflicting information leading to the view that the benefit of the doubt should be given to i-CABLE.

5. Following are details of the substantive allegations against i-Cable:

- CASE 1 - An i-CABLE salesperson, allegedly claiming to be a representative of Cable TV, told him that there was a special offer for loyal Cable TV customers. The salesperson also told the complainant that the special offer would include Cable TV's News, Entertainment and Movie channels. After signing up for the offer, the complainant discovered the new service package only included the Cable TV channel A.

The complainant called up the salesperson but he claimed that the salesperson told him that the Channel A was an integrated channel which included the News, Entertainment and Movies.

The complainant alleged that the salesperson had misled him into entering a service contract with i-CABLE by claim that there was a special offer by Cable TV to long-term Cable TV customers which included the News, Entertainment and Movies channels.

- CASE 2 - According to the complainant, an i-CABLE salesperson approached him at home. The salesperson offered two of i-CABLE's broadband services packages to the complainant, one at \$68 per month (\$3 per hour) and the other at \$92 per month (unlimited access). The complainant opted for the \$92 per month package.

The salesperson then told the complainant that as this special offer was part of a bundled offer (bundled with the Cable TV service), it could not be subscribed alone. He then asked the complainant to join a \$152 package with additional \$60 for the Cable TV service.

As the complainant indicated that he would not sign up for the Cable TV service, the salesperson suggested an alternative whereby the complainant was required to pay \$152 for the first month of the i-CABLE service. From second month onwards, the monthly fee would be resumed to \$92. The complainant accepted this arrangement and signed the contract.

However, the complainant later found out through the i-CABLE hotline that there was no such offer as mentioned in paragraph 29 above. The complainant alleged that the salesperson had misled him into signing a contract with i-CABLE. The salesperson did not inform him about the minimum contract period as well.

- CASE 3 - An i-CABLE salesperson, allegedly claiming to be a representative of Cable TV, told him that there was a special offer for loyal Cable TV customers. The salesperson further stated that the new special offer was at lower price (i.e. \$116 per month) and included the Cable TV 「超值家庭套餐」 (“Super Family Pack”), free broadband service plus the “9 channel Broadband Pack” . The complainant then signed the contract.

However, when the complainant received the Cable TV bill, he found that the bill amount was not \$116. The complainant called up Cable TV and was informed that he had another bill of \$116 pending for settlement. The complainant alleged that the salesperson had misled him into entering the service contract with i-CABLE.

- CASE 4 - An i-CABLE salesperson, allegedly claiming to be a representative of Cable TV, told him that he could switch his Cable TV service to a cheaper service plan. However, the complainant later found that he had signed a service contract with i-CABLE instead of Cable TV. The complainant alleged that the salesperson had misled him into entering to a service contract with i-CABLE.
- CASE 5 - An i-CABLE salesperson, allegedly claiming to be a representative of the “CABLE”, told him that he had a special offer for existing Cable TV customers (the complainant believed that the salesperson was a staff member of the Cable TV as he had the complainant’s telephone number and also knew about her Cable TV service). The salesperson was alleged to have claimed that the News channel would be included in the new promoted offer.

However, five days after the installation of service, the complainant found that he still could not watch the extra TV channels including the News channel. The complainant called the Cable TV hotline and was informed that he did not subscribe the News Channel and this channel was not included in his subscribed service plan.

The complainant alleged that the salesperson had misled him into entering a service contract with i-CABLE by telling him that “the News Channel will be included in the offer”.

- CASE 6 - An i-CABLE salesperson, allegedly claiming to be a representative of Cable TV and approached the complainant to promote the Cable TV service bundled with i-CABLE broadband service. As the complainant was only interested about the Entertainment channel, he repeatedly asked the salesperson whether the new package including the Entertainment channel. The complainant alleged that the salesperson’s reply was affirmative.

However, even four days after the installation of service, the complainant could not access the Entertainment channel. The complainant then called the salesperson who then replied that the Entertainment channel was included in the Channel A. Alternatively, he could watch it through the Internet. The complainant realised at that point that he had signed a service contract with i-CABLE instead of Cable TV.

The complainant alleged that the salesperson had misled him into entering a service contract with i-CABLE by claiming that he was a staff member of Cable TV and that the Entertainment channel would be included in the new offer.

- CASE 7 - An i-CABLE salesperson allegedly told the complainant that there was a special offer for loyal Cable TV customers and all her existing TV channels were included in the offer. As the complainant considered that the offer was more suitable for him, he signed the contract.

The next day, the complainant found out that he had already entered into a new service contract with i-CABLE, and the contract did not include the complainant’s existing Cable TV channels.

The complainant alleged that the salesperson had misled him into subscribing i-CABLE’s broadband service by stating that it was a Cable TV service plan and it included all his existing TV channels.

- CASE 8 - An i-CABLE salesperson allegedly claimed to be a representative from 「有線」 (“CABLE”) and told the complainant that there was new promotional offer for Cable TV service. The new promotional offer would include the Entertainment and Movie channels and free i-CABLE broadband service. The complainant signed the contract.

As requested by the salesperson, the complainant called up Cable TV to cancel his existing Cable TV service. However, the Cable TV hotline told the complainant

that the cancellation of the service required 1 month advance notice. The complainant then told Cable TV that he did not intend to terminate the service but wanted to switch to another service plan. The Cable TV then informed the complainant that his newly subscribed service plan did not include the Entertainment and Movie channels.

The complainant alleged that the salesperson had misled him into entering the contract with i-CABLE by stating that the promotional plan included the Entertainment and Movies channels.

- CASE 9 - In mid-July 2004, an i-CABLE salesperson approached the complainant. The salesperson allegedly claimed to be a representative of 「有線」(“CABLE”) and told the complainant that there was a new Cable TV service plan for existing users. The monthly fee under the new promotional offer would be \$8 less. There would be 5 extra Cable TV channels and free broadband service.

The complainant later found that he could not watch those extra channels. The complainant's sister called Cable TV and was informed that her service was provided by i-CABLE.

The complainant then rang up i-CABLE salesperson to clarify the matter but did not receive any response. The complainant then called the Cable TV customer service again and confirmed that the promotional offer which he had signed up for was provided by i-CABLE instead of Cable TV. Furthermore, his original Cable TV contract was still valid.

The complainant alleged that the salesperson had misled him into entering a service contract with i-CABLE by stating that the offer was by Cable TV.

- CASE 10 - The complainant had joined the Cable TV's Super Family Pack since 2003. In July 2004, a salesperson allegedly claimed to be a representative of Cable TV told the complainant that there was a special offer for the Super Family Pack subscribers. The salesperson also allegedly claimed that the special offer would include all existing Cable TV channels and free broadband service. The complainant then signed up for the offer.

The complainant later found out from Cable TV that he had actually entered into a service contract with i-CABLE after receiving Cable TV's monthly bill for his Super Family Pack Cable TV service.

The complainant alleged that the salesperson had misled him into subscribing i-CABLE's service by claiming to be a staff of Cable TV and the special offer

would include the Cable TV channels in the Super Family Pack.

- CASE 11 - An i-CABLE salesperson approached the complainant and allegedly claimed that he was there to offer him a deduction in his [Cable TV] service charge. All his existing Cable TV service would remain unchanged after the discount.

The complainant later found out that he had actually entered into a new service contract with i-CABLE. Cable TV on the other hand still charged him for his Cable TV account.

The complainant alleged that the salesperson had misled him to enter into the service contract with i-CABLE by claiming that the offer was a discount plan for his existing Cable TV service.

- CASE 12 - The complainant has been a subscriber of Cable TV for two to three years. In July 2004, a salesperson approached the complainant's friend and introduced a special offer for existing Super Family Pack users. The salesperson allegedly claimed to the complainant's friend that the special offer would include all existing Cable TV channels in the Super Family Pack. As the complainant also subscribed to the Super Family Pack of Cable TV, he took up the special offer as well.

However, the complainant later found out that he had signed a service contract with i-CABLE instead of Cable TV and the special offer did not include the TV channels in the Super Family Pack.

The complainant alleged that the salesperson had misled him into subscribing i-CABLE's broadband service by stating that the new special offer would include all TV channels of the Super Family Pack.

- CASE 13 - In July 2004, a salesperson who claimed himself to be a staff of Cable TV approached the complainant and allegedly told the complainant that there was a special offer for customers who had subscribed Cable TV service for more than 5 years. The special offer included 9 selected Cable TV channels such that the complainant could now watch the News and Soccer programmes. The special offer also included free broadband service and free IDD service. The complainant signed up for the offer.

The next day, when the complainant called Cable TV to enquire about the 9 selected TV channels in the offer, he found out that the salesperson in question was in fact a staff of i-CABLE.

The complainant alleged that the salesperson had misled him into subscribing i-CABLE's service by not identifying himself as a staff of i-CABLE.

- CASE 14 - An salesperson approached the complainant and allegedly told him that there was a special offer for existing Cable TV customers. The salesperson also allegedly claimed that the special offer would include all his existing Cable TV channels, the 5 channels in the We-Wet Pack, free broadband service and free IDD minutes.

However, the complainant later found out from the Cable TV hotline that the special offer was actually provided by i-CABLE instead of Cable TV. He was required to pay extra subscription fee for the existing Cable TV channels.

The complainant alleged that the salesperson had misled him into entering a service contract with i-CABLE by stating that it was a special offer for existing Cable TV users and the offer included the existing Cable TV services.

- CASE 15 - The salespersons allegedly identified themselves as representatives from 「有線」("CABLE") and claimed that Cable TV was now offering free broadband service, free IDD service and extra TV channels (in addition to the complainant's existing channels). However, the complainant later found that he would not be able to watch his existing Cable TV channels if he cancelled his previous subscription with Cable TV.

The complainant alleged that the salesperson had misled him into subscribing i-CABLE's service by claiming that the new subscription plan would not affect the existing Cable TV channels.

- CASE 16 - An i-CABLE salesperson allegedly claimed to be a representative of Cable TV and told the complainant that he had been selected in a lucky draw to enjoy a special offer. The salesperson repeatedly told the complainant that he was not required to pay the original Cable TV subscription fee (i.e. \$199) after taking up the special offer.

However, the complainant later found out that he had in fact entered into a separate contract with i-CABLE. The complainant alleged that the salesperson misled him into entering the contract with i-CABLE by claiming that he was not required to pay the \$199 Cable TV subscription fee after subscribing the special offer.

- CASE 17 - An i-CABLE salesperson allegedly claimed to be a representative of Cable TV and told the complainant that there was a special offer available to him with lower service fee and additional TV channels.

The complainant later found out that he had in fact entered into a separate contract with i-CABLE. The complainant alleged that the salesperson misled him into entering a contract with i-CABLE as he identified himself as a staff of Cable TV.

- CASE 18 - An i-CABLE salesperson allegedly told the complainant that there was a special promotional offer for existing Cable TV customers such that the complainant could enjoy additional TV channels (all her existing Cable TV channels plus 4 extra channels) and free broadband service at a lower monthly fee.

However, the complainant later found that i-CABLE had wrongly registered her address in its correspondence. The complainant made a telephone enquiry to Cable TV and found out that she had in fact entered into a separate contract with i-CABLE but still had to pay Cable TV for the channels she was currently watching.

The complainant alleges that the salesperson deceived her into subscribing to i-CABLE's service by stating that all existing Cable TV channels would be included in the special offer.

- CASE 19 - The complainant was customer of Cable TV. In September 2004, an i-CABLE salesperson allegedly called and visited the complainant to introduce a special offer to her. The salesperson told the complainant that she was one of 100 customers selected to enjoy a special bundling offer (i-CABLE broad band + Cable TV services) at \$116 per month. The special offer also included 120 free IDD 007 long distance call minutes.

The salesperson told the complainant that her existing Cable TV contract would be cancelled and replaced by the new contract. The difference in the monthly charge would be refunded to her later. On the basis that the service fee for the new service plan was lower than her existing service plan, the complainant accepted the offer.

A few days later, the complainant found that she could not access her IDD 007 service, so she made an inquiry to Cable TV and found that she had not signed any new service plan with Cable TV. She was advised to contact i-CABLE directly for information about her new service plan. The complainant called the i-CABLE and found that the new service plan did not include all her existing Cable TV channels. She still had to pay Cable TV for all channels she was currently watching.

The complainant alleged that the salesperson had made misrepresentations which misled her into signing a new service contract with i-CABLE.

- CASE 20 - An i-CABLE salesperson allegedly stated that there was a special offer for selected Cable TV customers and repeatedly told the complainant that the new service plan would include the Children is channel, Movie channel and News channel.

However, the complainant later found out that she had in fact entered into a separate contract with i-CABLE and the special plan did not include the Children's Movie or News channels.

The complainant alleged that the salesperson deceived him into entering a service contract with i-CABLE by stating to him that the special offer would include the Cable TV Children's, Movie and News Channels.

- CASE 21 - The complainant was a customer of Cable TV for over 7 years. Her most recent subscription fee was \$170 per month and she did not have any term contract with Cable TV.

In August 2004, a salesperson approached the complainant and allegedly told her that there was a new special loyalty offer for existing Cable TV customers. The salesperson allegedly said that long-term Cable TV customers were eligible to enjoy 9 extra TV channels. The salesperson further explained that the new service package included her 3 existing channels, 9 extra free TV channels and the broadband service. All channels could also be watched on the Internet and the contract period was 18 months. The complainant signed the service agreement.

The salesperson allegedly stated that the additional channels should be available within 48 hours. The complainant called the salesperson two days later when she found that she could not watch any TV channels. During the conversation, the salesperson tried stated that the complainant's difficulties might be due to a mistuning of TV channels.

When the complainant called the Cable TV hotline and asked for assistance, she found that the special offer was provided by i-CABLE instead of Cable TV. If the complainant wanted to watch her previously subscribed 3 channels, she had to pay for two service plans.

The complainant alleged that the salesperson had deceived her into signing a service contract with i-CABLE by telling her that the new offer would enable her to watch all her existing channels with free additional TV channels and broadband services.

- CASE 22 - The complainant was a customer of Cable TV for many years. His most

recent subscription fee was \$130 per month. He did not have any term contract with Cable TV.

In June 2004, a salesperson called the complainant and told him that there was a new special loyalty offer for existing Cable TV customers. The salesperson allegedly said that long-term Cable TV customers were now eligible to enjoy 5 extra TV channels. After the complainant accepted the offer, the salesperson said that a free broadband service would also be given to him.

The salesperson subsequently approached the complainant's premises to complete the registration process. During the registration process, the salesperson stated that the actual no. of the free extra channels should be 9 in stead of 5 and the package also included free IDD minutes and a free broadband service. The complainant said that he had asked the salesperson whether the News Channel would be included as one of the additional a free TV channels. The salesperson allegedly replied that it would include 「重點新聞7號台」(in English: "Top News - Channel 7").

As the salesperson had indicated to the complainant that the monthly service fee would be changed to \$116, the complainant asked the reason for the change of the monthly fee. The salesperson allegedly did not explain, but simply reiterated that the complainant was only required to pay the new service fee.

The salesperson also allegedly stated that if the complainant selected to pay the monthly fee by credit card, he would enjoy a further \$20 cash rebate on his monthly fee (i.e. only \$76 would be charged for the 2nd month and \$96 for 3rd month and thereafter). On this basis, the complainant signed the service agreement.

The complainant called the salesperson when he found that he could not watch the new channels. During the conversation, the complainant alleged that the salesperson confirmed again that he was only required to pay the new service fee for his service.

As the complainant had been unable to contact the salesperson, he called the Cable TV customer service hotline only to discover that he was now subscribing to two service packages and was required to pay separate service fees to both Cable TV and i-CABLE. The complainant was also informed by the salesperson that he could only watch the Children's Channel via the Internet. The complainant found that the content of the Children's Channel in the Internet was different from the Cable TV Children's Channel.

The complainant alleged that the salesperson deceived him into signing a service contract with i-CABLE by telling him that the new offer would enable him to

watch all his existing channels with free additional TV channels, broadband services and IDD minutes.

- CASE 23 - In August 2004, a salesperson allegedly approached the complainant's father and told him that his current Cable TV service plan would be suspended in a few months time. The salesperson allegedly said that she was offering a new service plan that bundled cable television and Internet Access services. The new service plan, she claimed, would replace the existing Channel 18 service plan.

The salesperson allegedly told the complainant's father that his service would be upgraded and the service charge would be lower.

The complainant noted that there was a clause in the application form stating that the monthly subscription fee would be debited by "Hong Kong Cable Television Limited". This led her to believe that i-CABLE and Cable TV belonged to the same company.

The complainant alleges that her father was misled by the salesperson into subscribing to i-CABLE's service by stating that "there would be no more Channel 18 service plan in the future," which in fact was not true.

- CASE 24 - In July 2004, a salesperson, who identified himself as staff of Cable TV, called the complainant and introduced a new service plan to her. The salesperson allegedly stated that Cable TV subscribers were now able to access the Internet service free of charge and the new service plan was cheaper than the complainant's existing plan as it was only \$116 per month, with a free Internet Access service.

The salesperson arrived at the complainant's premises 15 minutes later. The salesperson allegedly told the complainant that the new service plan included 10 TV channels, which were similar to those provided in her existing service plan, with the additional free Internet Access service. The salesperson also stated that the new service included the News channel, which the complainant's existing service plan did not contain. The complainant alleged that the salesperson claimed that the new service plan would also include the Channel 12, AXN, 41, Discovery and the Children's channels. The complainant had made clear to the salesperson that these channels were the most important channels from her point of view. On this basis, the complainant signed the application form.

Later, the complainant allegedly discovered that she could not access the channels to which she had subscribed (i.e. Channel 12, Channel 41, Discovery Channel and Children's Channel) anymore. She called Cable TV and found that she had actually signed a service contract with i-CABLE instead of Cable TV.

The complainant alleges that the salesperson misled her into entering a service contract with i-CABLE by stating that the free Internet Access Service was a free gift for subscribing to the Cable TV service.

- CASE 25 - The complainant had been a Cable TV customer for three years and paid a monthly subscription fee of \$230.

In August 2004, an i-CABLE salesperson allegedly called the complainant and told her that she had won a grand prize in the lucky draw for long term Cable TV customers. The salesperson allegedly stated that the complainant could now reduce her Cable TV subscription fee from \$239 to \$116 plus get free broadband Internet access, an extra 9 free Cable TV channels and 120 free IDD minutes. The complainant agreed to the salesperson approaching her premises for the promotion of the new special offer.

The i-CABLE salesperson arrived at the complainant's premises and showed an agreement to the complainant and urged her to produce her credit card information and sign on the agreement.

However, the complainant's husband was suspicious of the salesperson's representations. He called the Cable TV hotline number in the front of the salesperson to inquire about the truth. As Cable TV hotline responded that the alleged offer was not provided by it, the complainant's husband then tried to contact i-CABLE for further details. At the same time, the salesperson left the complainant's premises.

Thereafter, i-CABLE was contacted and confirmed that there was no reduction of the complainant's Cable TV subscription fee and the agreement signed by the complainant was an additional contract with i-CABLE. The complainant then called the salesperson and requested him to cancel the agreement. He also lodged a complaint with i-CABLE.

The complainant alleged that the i-CABLE salesperson misled her to sign a service agreement with i-CABLE by stating that the special offer would reduce her existing Cable TV subscription fee.

TA's Action

6. Section 7M of the Ordinance imposes an obligation on i-CABLE to ensure that its sales people do not engage in misleading or deceptive conduct. OFTA staff have discussed with i-CABLE their concerns in relation to the conduct of the sales

people in the above cases which, as noted, were each assessed as involving a case to answer in terms of possible misleading or deceptive conduct of a kind contrary to section 7M of the Ordinance.

7. Having raised our concerns with i-CABLE and reviewed its compliance processes and recent improvements to its internal systems, OFTA is satisfied that the company has correctly identified the problem areas and addressed the specific concerns that have been raised. All outstanding disputes with individual complainants have been settled.

8. In addition, i-CABLE along with a number of other industry participants has undertaken to OFTA to fund a consumer awareness programme to be established in consultation with the Consumer Council and OFTA. This HK\$2.3 million programme is foreshadowed in the TA's March 2005 *Report on Mis-selling of Fixed-Line Services to Hong Kong Consumers* ("the Mis-Selling Report"), and in i-CABLE's case its contribution exceeded any penalty that may have otherwise been imposed on it had the TA reached a concluded view that the cases listed above constituted a breach of section 7M.

9. Recognition of such factors as a basis for the TA not making a finding against an operator is an established principle aimed at improving the market-place performance of all service providers in a more meaningful way than the mere imposition of financial penalties would by itself achieve. See, for instance, the TA's previous decision in Case T165/04 against PCCW-HKT Telephone Limited and paragraph 37 of the Mis-selling Report in which the TA explicitly acknowledges the value of pro-active initiatives by operators that promote a standard of behaviour that is above and beyond what the law requires.

10. In light of the above, the TA does not consider it necessary to form a concluded view on whether or not a breach of section 7M can be established in individual cases noted here.