

# Alarm Bells Briefing: Slimming Pill 'Free Trial' Scams





## Introduction

The Citizens Advice Consumer Service helpline saw a staggering 710 per cent increase between 2012 to 2014 in complaints about traders of slimming and health supplements taking money from people's accounts without their informed authorisation. In almost all cases this took place after the purchase of 'free' trial packs of slimming products or other health supplements from online sellers.

In the six months to October 2014 callers to the Citizens Advice Consumer Service Helpline lost £465,000 to slimming pill 'free trial' scams, and on average each caller lost £150. We estimate that consumers in England, Wales and Scotland may lose more than £1 million to this scam by the end of this financial year. This short note sets out the scale and nature of the issue.

## Analysis of Citizens Advice Consumer Service Helpline cases

The Citizens Advice Consumer Service Helpline takes approximately one million calls per year across a wide range of issues. We analyse this data continuously to identify detrimental practices and patterns in poor treatment of consumers, as well as potential breaches of the law.

The evidence from thousands of calls to the helpline shows definite patterns in the operation of these scams. In particular, the traders exploit consumer trust in online purchases and disinclination to thoroughly read terms and conditions.

Although the Consumer Contracts Regulations,<sup>1</sup> which came into force in June 2014, state that traders must provide the means for consumers to actively give permission to any further payments, calls to the Consumer Helpline continue to go up. A big challenge in reducing the impact of such scams is that a large number of traders selling these products are based outside the UK and European Union, meaning they are not affected by the law of these territories. However, it is worth noting that such firms generally use 'fulfilment houses' in the UK, which dispatch the product to the consumer.

### Box A

#### What's the scam?

- Traders offer consumers a free trial of slimming pills or similar health supplements
- Advertising can be in print or online, including pop-ups and across popular social media platforms;
- Some of the online advertising features images of celebrities who have allegedly used these products
- Traders get consumers to sign up by offering a free trial pack; all the consumer needs to pay for is the postage and packaging – usually less than £5.00.
- To pay for the postage and packaging the consumer needs to provide their debit or credit card details.
- There may be very long terms and conditions (T&Cs) – these may

<sup>1</sup> See The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 <http://www.legislation.gov.uk/uksi/2013/3134/contents/made>

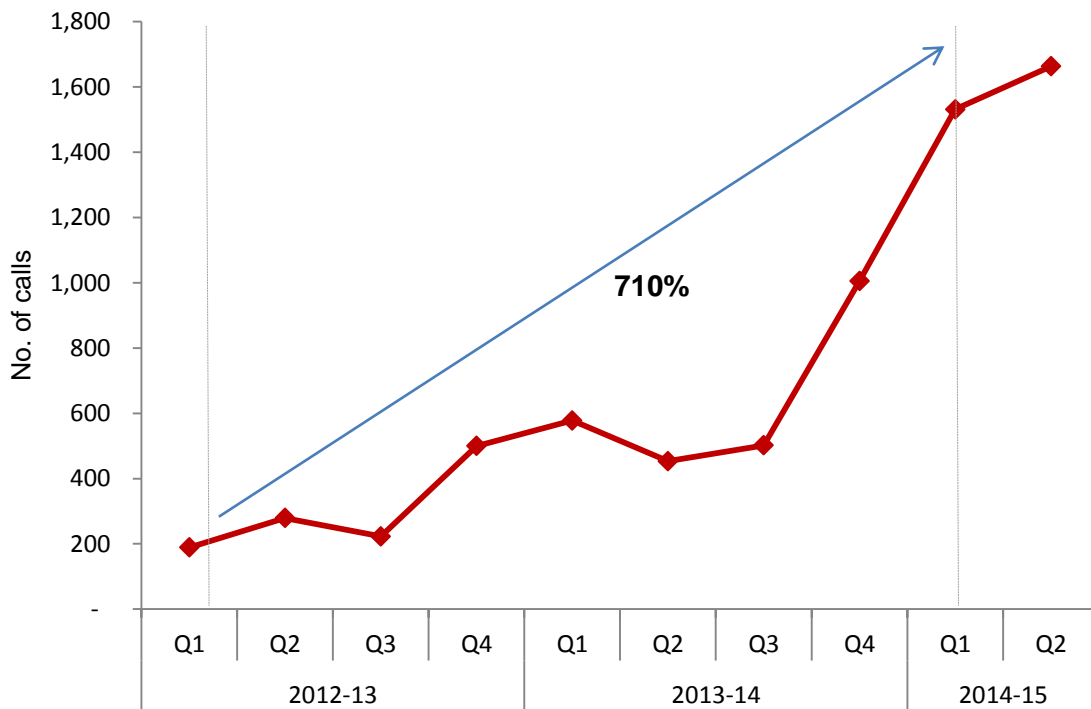
presented as a pre-ticked acceptance, a tick-box to accept the T&Cs with the actual details a further click or more away, or an implicit acceptance in 'by placing the order the consumer accepts the T&Cs'.

- Hidden in the T&Cs there may be a reference to a subscription order of the product on a regular basis unless the consumer cancels within a set period of time.
- The T&Cs are effectively a contract between the seller and the buyer.
- Some traders make no reference to subscription or additional orders.
- The consumer has unknowingly agreed a 'continuous payment authority' (CPA) which allows the trader to debit money from their account when they want, and as much as they want.

Since the first quarter of 2012-13 we have been aware of an ongoing increase in the numbers of calls we have received about unauthorised debits from people's accounts following the purchase of a trial pack of slimming products or similar health supplements. In the last two years:

- the consumer helpline received 189 calls about this issue in quarter one 2012-13
- the consumer helpline received 1531 calls about this issue in quarter one 2014-15
- there has been an increase of 710 per cent in calls to the consumer helpline about this issue (see Figure 1)

**Figure 1: Calls to the Citizens Advice Consumer Helpline about money taken from consumer's accounts without their informed consent following purchase of trial packs of slimming pills/health supplements**



Comparing the six months to end of September 2014 to the same period in 2012 there has been an increase of 496 per cent. Problems of this type are now one of the top twenty issues dealt with by the Consumer Service.

We analysed over 7,000 cases dating back to April 2012 to establish how this deception operates. In particular, the analysis looked at how these scams differ from the other problems people report to the Consumer Helpline. We found that:

- 88 per cent were online purchases with a credit or debit card; compared to 8 per cent for all consumer queries to the helpline
- 73 per cent were assessed by advisers at the consumer helpline as potential criminal breaches of consumer protection legislation; compared to 16 per cent for all queries to the helpline

Whilst online purchases make up a comparatively small proportion of the overall queries to the helpline, showing that the majority of companies who trade online adhere to distance selling and other laws, the operators of these scams gain a clear advantage in transacting online. In particular, these rogue traders take advantage of the tendency to routinely check the box labelled “I have read and agree to the Terms and Conditions” without thoroughly reading reams of fine print.

In one example we looked at, the terms and conditions did state that buyers were signing up to a continuous payment authority for the products – but that was buried more than one thousand words into the document. This allows the company to take a series of payments from the consumer’s bank or credit card account.

Looking in detail at the descriptions of these scams provided by callers to the helpline, the majority had common features, including:

- the contracts were entered into without the express knowledge of the consumer
- people were able to cancel the CPA to prevent future payments, but few customers have been able to get a refund from their bank or credit card company, even though they did not give explicit consent to the withdrawals
- the trader did not return calls or emails, and/or contact details were not readily available
- the unauthorised debits from accounts frequently cause significant financial hardship

**Box B**

**Selected case studies from cases the Citizens Advice Consumer Helpline:**

A caller to the helpline described purchasing supplements marketed as a natural aid to losing weight. The caller paid less than £3.00 for the postage and packaging for a free trial by debit card over the internet. The seller then took out £95.00 for a 3-month-supply of the product, which had not been explicitly ordered, and were also not then supplied. The caller is now struggling to pay other bills as a result of the loss.

A consumer ordered a trial sample of a slimming product from an online retailer, paying for postage costs only. After hearing that this could be a scam, the consumer notified the bank that the seller did not have authorisation to take further payments. Despite this, more slimming products were delivered and a payment for a year's supply of the product was deducted without permission.

After seeing an advertisement in a national newspaper the caller went to their website and ordered a free trial pack of health supplements, paying for postage and packaging on a credit card. The next month's credit card statement showed four debits of £80.00, and again the following month, with a total of £640 charged to the credit card. When contacted, the credit card company stopped any further payments but would not refund the earlier charges as the customer had provided the card details voluntarily to the company taking payment.

## **Consumers are being duped into giving permission to rogue traders to take money from their accounts**

The key feature of these scams is that they are duping people into continuous payment authorities. CPAs differ from the more commonly understood direct debits and standing orders in that they give the company taking the payment much more flexibility about how much and when they take money from an account, and are not supported by the guarantee that covers direct debits. CPAs might be described as 'recurring payments' 'guaranteed payments' or a 'recurring transaction' in the terms and conditions.

The Consumer Contracts Regulations state that a trader must receive active permission from the consumer for any further payments. In an online sale this means that the consumer needs to actually 'tick' a box to say they agree to further payments. If a consumer is not made aware of any further charges, they will not be liable for them. Pre-ticked boxes and other forms of implicit consent are also banned. This active consent also applies where traders add further options to purchase which attract charges.

Consumers have the right to cancel a CPA through their bank or credit card company, who must action the request immediately. A CPA may also be cancelled by contacting the company it pays. Very few people contacting the consumer helpline had been able to secure a refund from their bank or credit card company for payments taken before they became aware they had a CPA and instigated the cancellation. The position being taken by bank or credit card companies is that the banking details had been provided willingly, thus the customer had no claim on a fraudulent transaction.<sup>2</sup>

As it currently stands, the responsibility lies very much with the consumer to be sure they are not signing up to a CPA. Citizens Advice will continue to monitor this issue and refer appropriate cases to Trading Standards and the Financial Conduct Authority.

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<sup>2</sup> See the Payment Services Regulations 2009, Part 6, 57 - 64  
<http://www.legislation.gov.uk/ukxi/2009/209/contents/made>

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- To provide the advice people need for the problems they face
- To improve the policies and practices that affect people's lives

## Our principles:

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. We value diversity, promote equality and challenge discrimination.



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