



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Stouf Communications (Pty) Ltd
Information Provider (IP) (if applicable)	Hortors Stationery (Pty)
Service Type	Premium rated SMS payment for e-mail product delivery
Source of Complaints	WASPA (refer Complaint #0006)
Complaint Number	#0035

Complaint

A complaint was received under complaint number #0006 from a member of the public regarding certain standard legal forms being marketed by Hortors on their Internet web site <www.hortors.co.za>. These forms were being offered in electronic form on the web site, with premium rated sms being used as the order and payment mechanism.

In the complaint and Service provider submissions concerning complaint #0006 the service provider indicated that the service and its integration was provided by the SP. The submissions further indicated that the SP was responsible for the failure to deliver the purchased content and that the SP had failed to respond to queries in this regard.

The Secretariat conducted an investigation into the service offered by the SP.

The following breaches of the WASPA Code of Conduct were raised:

3.1.1. Members will at all times conduct themselves in a professional manner in their dealings with the public, customers, other wireless application service providers and WASPA.

3.3.1. Members will not offer or promise services that they are unable to provide.

3.3.2. Services must not be unreasonably prolonged or delayed.

4.1.5. Members must have a complaints procedure allowing their customers to lodge complaints regarding the services provided. Members must acknowledge receipt of complaints expeditiously, and must respond to any complaints within a reasonable period of time.

Investigation

The Secretariat received a response from the SP as follows:

- **Delivery of the Hortors forms to Mr Chana**

The SP received the MO message 1 September, 07:55 from Foneworx. There were no errors on the message, ie the form code (HOR3) was valid. The system subsequently processed the transaction, ie fetch the HOR3 forms, create the email and send (successfully) to the client, as per the log details below. The SP noted that the HOR3 forms are sent as an attachment, with file type “.hor”. The SP provided an extract of its log from the forms system for 1 September 2005:

```
07:55:35  Getting data from table
07:55:35  MO Message: HOR3 amish@3g.co.za
07:55:35  Request data: 27725329203 HOR3 amish@3g.co.za
07:55:35  Email to: amish@3g.co.za
07:55:35  Path: c:/java/FormSender/forms/ir3.hor
Running Descriptor:
07:55:35  C:/java/FormSender/Descriptor/Descriptor.exe
"c:/java/FormSender/forms/ir3.hor"
07:55:36  Busy sending Email to amish@3g.co.za
07:55:37  Email send done!
07:55:37  Updating request - seq_no: 155
```

The SP indicated that the log details are available for scrutiny/audit at any time.

As to the client's complaint of not receiving the e-mail, the SP suggested that perhaps the client's mail server blocks him from receiving .hor files as an attachment.

- **Pricing**

Marketing material:

The SP attached copies of the official (agreed between Stouf and Hortors) marketing leaflet supporting the service all as per WASPA requirement, bearing in mind that the service (and the leaflet) was created in early 2004.

As far as the SP was aware, the leaflet was the only means of marketing the service.

Website marketing:

The SP was not aware of the website marketing, but strongly commented that “Hortors would NOT have deliberately misled customers in any way or under any circumstances.”

The SP noted that the fact that Mr Chana sent his MO 5 days after the closure of the service is somewhat puzzling, but had no further comment in this regard.

The SP indicated that it could not comment on the verbal instructions regarding pricing that Mr Chana allegedly received from Hortors Stationery.

The SP, however, repeated its “firm belief that Hortors would NOT have deliberately misled customers in any way or under any circumstances.”

- **Poor Service**

The SP indicated that it had asked for a meeting between Hortors and Stouf management to address the statements made concerning the SP, which statements the SP most strongly rejects. The SP offered to inform WASPA of the outcome of the meeting and to supply a copy of the minutes.

The SP stated that its relationship with Hortors to date has been most cordial and it found the tone and content of the mail relating to its poor service very disturbing.

Decision

The Adjudicator did not uphold the complaint.

The Adjudicator was of the view that the services and service levels provided by the SP as well as its conduct in respect of Complaint #0006 did not breach the WASPA Code of Conduct.