



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Always Active Technologies
Information Provider (IP) (if any)	N/A
Service Type	Unsolicited SMS
Source of Complaints	Public
Complaint Number	#0120

Adjudicator's Note

This Complaint is closely related to that adjudicated on under Complaint #0121 which was in regard to similar subject matter and originated from the same Complainant but was in respect of a different Service Provider.

Complaint

The following Complaint was submitted by a member of the public on 16 January 2006:

"I received the following SMS: 'Please Call Susan at 0764908626. SMS Toy Story to 38660 to donate R10 which is used 4 food parcels and toys 4 the under privileged'

As this message was unsolicited and I was irate, I phoned the number concerned and the answering party is certainly no charity. This is Spam and I suspect it is also a money making scam."

SP Response

The SP's response, received by the WASPA Secretariat on 17 January 2006, is as follows:

"Toy Story is a charity event run by East Coast Radio and various partners amongst others Vodacom for who AAT in fact run this service (see <http://www.ecr.co.za/content/view/2789/82/>)

The reason the client received this SMS with a message urging him to send a donation to Toy Story was that AAT decided to take up our allotted quota on the "Please Call Me" advertising tag kindly offered to us by Vodacom. This was in fact not an unsolicited SMS to his phone at all but a "Please Call Me" from someone requesting that he call them back + an "advertising tag".

AAT put forward a request to Vodacom that our "Toy Story" donation request be used and said request was approved. Please find below the initial correspondence from Vodacom:"

[Whereafter follows correspondence from Vodacom inviting the SP to forward its advert to be included in the relevant "issue of the Please Call Me".]

"In light of this information it will be clearly seen that this is neither malicious or "SPAM" and if anyone should be taken to task on spamming the consumer it should be the originator of the SMS (Susan at 0764908626) who made use of the "Please Call Me" service."

Decision

The communication received was neither primarily commercial in nature nor was it unsolicited and I can find no breach of version 3.2 of the WASPA Code of Conduct and in particular section 5 thereof which related to the sending of commercial communications. It is clear that the Complaint stems from a misunderstanding of the nature of the SMS received by the Complainant and I do not believe it is necessary to consider the matter further.

The Complaint is accordingly not upheld.