



REPORT OF THE ADJUDICATOR

WASPA Member (SP): ITouch
Information Provider (IP): Glamour Magazine
Service Type: Bulk messaging
Source of Complaints: Consumer
Complaint Number: 0195

Complaint

The complainant stated that, during 2005, she had requested Glamour Magazine to remove her details from their database by calling and sending SMS messages to them. She complained that she has again received an SMS message or messages from Glamour Magazine in 2006.

SP Response

The SP responded that neither it nor the IP (Glamour Magazine) had received any request that the customer be removed from their database. The SP advised that it had, since the lodging of the complaint, removed the customer's number from the database and apologised for any inconvenience that may have been caused. The SP invited the complainant to liaise with it further by providing additional details about the complainant's requests to be removed from the database in order that the SP could investigate the matter further and prevent something similar from happening again. The SP had communicated with the IP and stated that the IP will be diligent in reporting any similar issues in future.

Decision

In terms of section 5.1.2 of the WASPA Code of Conduct any message originator must have a facility to allow the recipient to remove his or herself from the message originator's database, so as not to receive any further messages from that message originator. It follows that where a consumer requests that his or her name be removed from a database, this request must be carried out promptly. I have accepted the complainant's version that she called and sent SMS messages to Glamour Magazine and that these requests were not acted upon. I have done so as I find it unlikely, on a balance of probabilities, that the complainant is being untruthful in her complaint and I believe it to be more probable that her request to be removed from the database concerned was not recorded or processed. Although the complainant states that she contacted Glamour Magazine and not the SP, section

3.9.1 of the Code states that WASPA members must bind any information provider with whom they contract for the provision of services to ensure that none of their services contravene the Code of Conduct. The complaint is accordingly upheld.

Sanction

The SP is formally reprimanded. I do, however, consider the various steps taken by the SP since the lodging of this complaint, including its apology to the complainant, its removal of the complainant from the relevant database, its communication with the IP on this issue and its willingness to investigate the issue further with the complainant so as to ensure that this type of error does not happen again to be both commendable and appropriate in the circumstances and no further sanction is imposed.