



REPORT OF THE ADJUDICATOR

WASPA Member (SP) TIMw.e. New Media Entertainment / Mira Networks.

Information Provider (IP)
(if any)

Service Type Subscription

Source of Complaints Mr H De Lang

Complaint Number 11361

Date received 10 December 2010

Code of Conduct version 10.0

Complaint

The complainant logged an unsubscribe request on the WASPA unsubscribe system on 22 November 2010. The SP responded by unsubscribing the complainant. However, the complainant was not satisfied that a refund was not offered and the matter was escalated as a formal complaint for adjudication.

The complainant was not aware that he had subscribed to the service and believes he should not be charged the subscription fee if he did not download any content.

SP's response

The SP did unsubscribe the complainant and has provided subscription logs for the period 27 February 2009 to 23 November 2010. However the SP has not responded to the formal complaint despite a reminder being sent to it.

Sections of the Code considered**Section 11.2.4**

If a subscription service is initiated by entering a customer's mobile number on a web page or WAP site, then a separate confirmation message must be sent to the customer's mobile handset in order to prove that the number entered matches the customer's mobile handset number. This message may either:

- (a) contain a PIN number which is then confirmed or validated on the web page,
or
- (b) contain a URL with a unique identifier, which, when clicked, validates the handset number.

Section 11.2.5

Where a subscription service is initiated by a user replying to a message from a service provider where that message contains instructions for activating a service and/or where that message contains an activation code that when inputted by the user activates a subscription service, then that message, along with the subscription initiation instructions and/or activation code, must also include the subscription service information in the following format, flow and wording:

[service activation instructions and/or activation code]. You'll be subscribed to [XYZ service] from [name of service provider] at [cost of service and frequency of billing].

Section 11.4.1

Once a customer has subscribed to a subscription service, a notification message must immediately be sent to the customer. This welcome message must be a clear notification of the following information, and should not be mistaken for an advert or marketing message:

- (a) The name of the subscription service;
- (b) The cost of the subscription service and the frequency of the charges;
- (c) Clear and concise instructions for unsubscribing from the service;
- (d) The service provider's telephone number.

Section 11.5.1

A monthly reminder SMS must be sent to all subscription service customers. This reminder must be sent within 30 days of the initial notification message, and once per calendar month thereafter.

Section 11.5.2

The reminder messages specified in 11.5.1 must adhere exactly to the following format, flow, wording and spacing:

You are subscribed to [name of service provider] [content/service description]. Cost [cost of service and frequency of billing]. For help, sms HELP [optional keyword] to [short code] or call [call centre number + "(VAS)" if applicable]. To unsubscribe, sms STOP [service keyword] to [short code].

or

You are subscribed to [name of service provider] [content/service description]. Cost [cost of service and frequency of billing]. For help call [call centre number + "(VAS)" if applicable]. To unsubscribe, sms STOP [service keyword] to [short code].

Section 11.5.3

The entire reminder message must be sent in a single SMS, may not contain any line breaks or carriage returns and may not include any additional characters other than those specified in 11.5.2.

Section 11.5.4

The content/service description must be text describing the content, promotion or service (e.g. “tones” or “poems”). This text must not be worded in a way that attempts to deceive or mislead the customer from the purpose of the reminder which is to inform the user that they are subscribed to a service.

Section 11.5.5

The cost of service and frequency of billing must use the format “RX/day”, “RX/week” or “RX/month” (or RX.XX if the price includes cents). No abbreviations of “day”, “week” or “month” may be used.

Section 11.5.6

The text “(VAS)” must be included after any VAS-rated phone number. It does not need to be included after phone numbers which are not VAS-rated.

Section 11.5.7

Members must test reminder messages on a range of phones to ensure that all characters and lines are displayed identically.

Decision

Section 11.2.4 of the WASPA Code is intended to avoid the possibility of a third-party entering a subscriber's number on a web site and causing that subscriber to be subscribed to a service without their consent.

The monthly reminder messages required by section 11.5.1 also provides a further opportunity for subscribers to be notified that they are subscribed to the service.

I have noted the proof of subscription provided by the SP and I am satisfied on the basis of the logs presented that the SP has complied with section 11.2.4 and 11.5.1. The complaint is accordingly dismissed.

