



REPORT OF THE ADJUDICATOR

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| Complaint reference number: | 14341 |
| WASPA member(s): | US Cellcom (IP) / Mira Networks (SP) |
| Membership number(s): | (IP) (1046) / (SP) (0011) |
| Complainant: | Public |
| Type of complaint: | Subscription |
| Date complaint was lodged: | 2011-08-11 |
| Date of the alleged offence: | Somewhere April 2011 |
| Relevant version of the Code: | 10.0 |
| Clauses considered: | 11.2.1 |
| Relevant version of the Ad. Rules: | Not applicable |
| Clauses considered: | N/A |
| Related cases considered: | N/a |

Complaint

The Complainant alleged that the IP in this matter subscribed him to a service he never subscribed to, and deducted money

He or she requested a full refund.

Information provider's response

No response was issued by either the IP or SP in this matter.

Sections of the Code considered

11.2.1. Customers may not be automatically subscribed to a subscription service as a result of a request for any non-subscription content or service. Customers may not automatically be subscribed to a subscription service without specifically opting in to that service.

14.3.5. The member will be given five working days to respond to the complaint, and to provide any additional information the member deems relevant to the complaint, including any mitigating factors that the member wishes the adjudicator to consider.

14.3.6. If the member fails to respond within this time period, it will be assumed that the member does not wish to respond. An extension to this time period may be given to the member at the discretion of the WASPA Secretariat.

14.3.14. On the basis of the evidence presented, the adjudicator will decide whether there has been a breach of the Code. Each case will be considered and decided on its own merits.

Decision

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her. The Adjudicator has taken note of the Complaint and the IP's or SP's subsequent failure to reply.

In the absence of a formal response by the IP and / or SP, the Adjudicator has no alternative, based on the evidence presented, to rule in favour of the Complainant.

The IP is found to be in breach of section 11.2.1.

The Complaint is upheld.

Sanctions

In determining an appropriate sanction, the following factors were considered:

- The prior record of the IP with regard to breaches of the relevant sections of the Code of Conduct; and
- The IP's subsequent response.

The IP is instructed to refund the Complainant in full, after 7 (seven) days having received notice hereof, and is formally reprimanded for its breach of section 11.2.1.