



## REPORT OF THE ADJUDICATOR

<b>Complaint reference number:</b>	14711
<b>WASPA member(s):</b>	Integrat (IP)
<b>Membership number(s):</b>	
<b>Complainant:</b>	Mr R Delvario
<b>Type of complaint:</b>	Subscription service
<b>Date complaint was lodged:</b>	2011-09-06
<b>Date of the alleged offence:</b>	2011-08-19
<b>Relevant version of the Code:</b>	11.0
<b>Clauses considered:</b>	2.11; 2.25
<b>Relevant version of the Ad. Rules:</b>	Not applicable
<b>Clauses considered:</b>	Not applicable
<b>Related cases considered:</b>	Not applicable

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### Complaint

The complainant logged an unsubscribe request on the WASPA unsubscribe system on 19 August 2011. The complainant requested a refund which the IP was not prepared to offer. The query was therefore escalated to a formal complaint in terms of clause 14.3 of the WASPA Code of Conduct ("the Code").

After the complainant provided a copy of an itemised bill for the relevant MSIDN, the WASPA Secretariat was notified that this was a twin-sim which was linked to another number. The charges levied by the IP did not reflect on the complainant's itemised bill provided for one of the linked numbers, but had been charged to his account by the network service provider in respect of the other number used.

The complainant has stated that he has no knowledge of the linked number to which the IP's charges have been levied.

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### **IP's response**

The IP responded by stating that its "Spin to Win" game was a user-initiated USSD service, and not a subscription service. Billing is done after a string is dialled, content is provided and the user can then win airtime.

The IP provided detailed logs and highlighted that the game in question was played from the relevant handset from about 10:30 - 13:30 on 4 July 2011.

The IP confirmed that the service had been checked to ensure that it was compliant with the Code and advertising guidelines.

The IP also confirmed that the necessary notification messages were sent to the handset after the R200 threshold had been reached, as is required by the Code. The IP provided logs as proof that these messages were sent.

The IP took note of the Secretariat's advices that the number used was linked to a twin-sim, but re-affirmed that it had not contravened the Code.

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### **Sections of the Code considered**

2.11. A "**content subscription service**" includes any subscription service providing or offering access to content including, by way of example only and not limitation: sound clips, ring tones, wallpapers, images, videos, games, text or MMS content or information. This includes any subscription service which describes itself as a "club" or which otherwise allows access to content to subscribers, at a cost which includes both a subscription element and a per content item element. Services which are not considered to be content subscription services include: dating services, chat services, location-based services, GSM terminal device services, corporate application services, reminder services, synchronisation applications, corporate communications applications, VOIP, etc.

2.25. A "**subscription service**" is any service for which a customer is billed on a repeated, regular basis without necessarily confirming each individual transaction.

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### **Decision**

I am satisfied that the service in question is not a subscription service.

There has been no further evidence presented that the IP has contravened the Code in any way. The complaint is accordingly dismissed.

It is recommended that the problem regarding the linked number should be taken up by the complainant with his network service provider.