



REPORT OF THE ADJUDICATOR

Complaint reference number:	15817
WASPA member(s):	Mira Networks (SP) / US Cellcom LLC (IP)
Membership number(s):	0011/1046
Complainant:	Mr C Berry
Type of complaint:	Subscription service
Date complaint was lodged:	5 December 2011
Date of the alleged offence:	4 December 2011
Relevant version of the Code:	11.6
Clauses considered:	5.1.11
Relevant version of the Ad. Rules:	n/a
Clauses considered:	n/a
Related cases considered:	10048; 13530

Complaint

The complainant received the following unsolicited promotional message from the IP on 4 December 2011:

**Message: Your Account ##### shows unclaimed mobile points in November! To redeem send GO to 39853.
TopSMS/sunscriptions@R7/day.Optout?Txtstop
<mailto:TopSMS/sunscriptions@R7/day.Optout?Txtstop>.**

The IP was requested by the WASPA Secretariat to provide information confirming when and how the complainant gave his permission to receive the promotional message.

IP's response

The IP alleges that the complainant left his number on a landing page for its internet campaign which was online in 2010. The IP provided a copy of a screen print of the relevant landing page. No further proof was provided by the IP to support the allegation.

Sections of the Code considered

5.1.11. Upon request of the recipient of a direct marketing message, the message originator must, within a reasonable period of time, identify the source from which the recipient's personal information was obtained, and provide proof that the organisation supplying the originator with the recipient's contact information has the recipient's explicit consent to do so.

Decision

I am not satisfied that the IP has provided sufficient proof that the complainant has given his explicit consent to it to receive his personal contact information.

The complaint is accordingly upheld.

Sanction

I have taken into account previous complaints against the IP regarding the same offence. Complaint 10048 was dismissed on the basis of a finding that the incorrect number had been transposed from the IP's online opt-in landing page. However complaint 13530 was upheld and the IP was fined R25 000.

In light of the foregoing, the IP is fined the sum of R 50 000.00 for the present breach of section 5.1.11 of the WASPA Code of Conduct.