



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Celerity
Information Provider (IP) (if any)	Bonlife
Service Type	Unsolicited message (competition services)
Source of Complaints	Mr S Whitford
Complaint Number	1678
Date received	6 July 2007
Code of Conduct version	5.2

Complaint

The complainant lodged a complaint via the WASPA website on 6 July 2007. The complainant alleges that he received the following SMS message on his HTC (number +27834597755 on 29 June 2007 at 11:58am from +278332600629000 and on 6 July 2007 at 15:18 from +27833260069001:

REWARDER COMPETITION! HUGE PRIZES to be won -TV's, DVD players, Weekends away. HURRY&BE A WINNER! SMS your ID or Bonlife policy no. to 34016 before 11/07/07!

The complainant makes particular references to the following alleged breaches of the code:

"5.1.1 The number in the SMS was +27833260062900 I'm not sure but is this a valid number. In the SMS it says SMS can be sent to 34016.

5.1.2 There is not option to opt out of the SMS

5.1.4 I did reply with STOP but have not received a response.

5.2 It is Spam because I did not request the message, I do not have a relationship with Celebrity Systems or Bon Life”

The complainant also states that there may be other breaches as he had not read the whole code before lodging his complaint.

The complaint was initially resolved via the informal complaint procedure but the complainant was not happy with the response received from the SP and IP and requested that the complaint be escalated to the formal complaint procedure.

SP Response

The SP has responded on a number of occasions to the complaint. To summarise the SP's response to the complaint:

1. The SP has acknowledged that the SMS messages sent to the complainant were unsolicited and allege that they were sent in error.
2. The SP has acknowledged that the IP has breached the provisions of the Code by not including an unsubscribe mechanism in the message, and by not including any pricing information.
3. The SP has undertaken to act in accordance with the WASPA complaints process and if appropriate to withhold payouts, suspend or terminate the services of the IP.

In addition, the IP has furnished 2 letters of apology to the complainant for the inconvenience caused.

Sections of the Code considered

Sections 4.1.1; 5 and 6.2.

Decision

The SP has acknowledged that the IP has breached sections 5.1.2 read with 5.1.4 by not including an unsubscribe mechanism in the unsolicited message that was sent to the complainant.

The SP has acknowledged that the IP has breached the provisions of 6.2 by failing to include any pricing information in the messages sent to the complainant.

The complaint is therefore upheld in respect of the contraventions of the abovementioned sections.

I am satisfied by the explanation given by the IP that the message that was sent to the complainant, who is not an existing client of the IP, was sent in error.

Sanction

The SP is aware of the seriousness of SPAM related issues and that the industry must work hard at preventing abuses of the WASPA Code in relation to SPAM. With that being said, I have accepted the SP's explanation for the sending of unsolicited messages to the complainant and that this is the only recorded instance of such messages being sent to a non-client of the IP.

The SP is issued with a formal reprimand.