



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Exactmobile
Information Provider (IP) (if any)	
Service Type	Subscription
Source of Complaints	Public
Complaint Number	2082
Date received	20 September 2007
Code of Conduct version	5.3

Complaint

The Complaint relates in great detail the efforts of the Complainant to download a ringtone through a service offered by the SP. The Complainant accessed the SP's website to verify that the ringtone was supported by his handset before purchasing using a premium rated shortcode for R15. The Complainant continues:

"I then received an sms from Exact Mobile that contained a link that should have allowed me to download the ringtone. I followed the link only to end up on a page that requires a username and password, but with no place to type them. I then call the support line 082 230 2222 where I was given a new link which consisted of 54 characters (numbers, letters & symbols). After typing this long address into my phone, I arrived at a page that offered a link to \"my download zone\". But when clicking the link, I got a message that said \"There are currently no items in your Download Zone\". I once again called the support line and was told that they would have to look into the problem and that they would call me back. I did not hear from them!!! On the 19/09/2007, I once again called the support line to ask if there was any progress, only to be asked what the problem was and if I had a reference number. I had not been given a reference number by anyone. So I had to once again go through the entire explanation again. I was then given a

reference number and told that someone would call me within the next two hours. I did not receive that call. When I called back AGAIN and quoted my reference number, I was told that the number was a valid one!!! I had to tell my story again!!! At this time I also send through and email to their support desk. I got a response late in the afternoon stating that some was working on it but they did not offer any guidelines as to when it may be resolved. Late night 19/09/2007 I sent through another email clearly outlining my disgust in their service. Only to receive and email on 20/09/2007 with a new link that also does not work!!! I then called their support centre again and asked to speak to a manager. I was told that this would not be possible and was transferred to a technician instead. He then told me that the problem related to my phone!!! When I asked him why they then had my phone and model listed as compatible, he could not offer my an answer. I again requested that I speak to a manager but Rxxxxx told me that this would not be possible. I have now requested that the charges be reversed and that I no longer require their service, he told me that he could not make that decision and would have to get back to me!

I feel that this company uses these tactics to offer a service that they have no intention of honouring in the hope that the client will give up and go away. I am also curious if they recieve a kickback from Vodacom for the support line as they get you to call back at laest four or five times and make you hold for three to five minutes?"

SP Response

The SP provided a full response which sets out an interesting exposition of its internal complaints procedure:

“.Exactmobile attempts to resolve all queries as quickly as possible. A call centre is run from 06:30 in the morning until 23:00 at night in an attempt to provide good service to subscribers. Management are kept up to date with complaints and take appropriate action when required.

The complaint lodged by this subscriber was initially handled in the correct manner by the call centre agents.

As Exactmobile does not have access to all the handsets in the market, much of the information on handset compatibility is retrieved from the manufacturers web sites and other sites that provide technical information on the handsets.

The first step in handling a complaint like this is to resend the content to the client., This was done. As the subscriber's handset does not support service indicators, binary SMS, or the facility to cut out URL's, the subscriber had to manually type in the URL to connect to the URL to retrieve the content. Once the client downloaded the content, the handset would not play the music. After investigating this situation it was found that the subscribers handset does not support Digital Rights Managed (DRM) content. As it is illegal to deliver content which is not digitally locked, Exactmobile was not able to deliver music to this handset.

The next step is to allocate the user Exact Credits to the same value as the purchase so that the user could use this to purchase other products. The client refused to accept this.

As the Exactmobile system was incorrectly configured for this handset, in that the system showed that the handset could play DRM locked content, when in fact it could not, Exactmobile will refund the user the R15.00 he paid for the content.

The handset compatibility list has been updated so that a user checking for compatibility will immediately see that the handset does not support this type of content. This complaint took longer to resolve than normal as the user refused to accept exact credits and the process to find out what the real problem was took longer than usual due to the lack of information on the users handset."

The SP provided a number of e-mails exchanged between the Complainant and the SP as well as internal mail pertinent to the Complaint.

Sections of the Code considered

The following sections of version 5.3 of the WASPA Code of Conduct were considered:

3.1. Professional and lawful conduct

3.1.1. Members will at all times conduct themselves in a professional manner in their dealings with the public, customers, other wireless application service providers and WASPA.

3.3 Service Levels

3.3.1. Members will not offer or promise services that they are unable to provide.

3.3.2. Services must not be unreasonably prolonged or delayed.

4. Customer relations

4.1.2. Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

4.1.5. Members must have a complaints procedure allowing their customers to lodge complaints regarding the services provided. Members must acknowledge receipt of complaints expeditiously, and must respond to any complaints within a reasonable period of time.

Decision

The root of the problem in this matter is clearly the erroneous representation on the SP's website that the handset in the possession of the Complainant supported the ringtone he wished to download. The action of the SP in reimbursing R15 to the Complainant is noted.

This is a breach of section 3.3.1 of version 5.3 of the WASPA Code of Conduct in that the SP can not in fact offer the service which it is advertising through a combination of marketing material and the information displayed on its website regarding handset compatibility.

The SP, while stating that the "complaint lodged by this subscriber was initially handled in the correct manner by the call centre agents", does not deal with the allegations raised by the Complainant relating to the failure of the SP's call centre staff to return calls as promised or to provide him with a reference number. The Adjudicator accepts the version advanced by the Complainant in this regard.

The Adjudicator does not find that there has been a breach of section 4.1.5 but does find that the standard of the SP conduct in this matter falls short of the professional standard required by section 3.1 of the Code of Conduct. The Complainant clearly went to some effort to locate the ringtone he wanted and verify its suitability and it is understandable that he did not want to accept credits or continue a process which had not advanced his cause. The Adjudicator is aware that this section was not cited in the original Complaint but does not regard making a finding in this regard as being procedurally fair as the SP has laid out the full facts of the matter and it does not appear that any additional material could be adduced in this regard.

The Adjudicator does not regard anything advanced by the Complainant as substantiating his allegations in respect of intentional misconduct on the part of the SP and would regard such allegations as indicative only of the frustration of the Complainant.

The SP is fined the sum of R500 in respect of the breach of section 3.3.1 and a further R1000 in respect of the breach of section 3.1.