REPORT OF THE ADJUDICATOR

WASPA Member:	Smartcall Technology Solutions
Service Type:	Subscription
Complainant:	WASPA Monitor
Complaint Number:	24386
Code Version:	12.4
Advertising Rules Version:	Not applicable

Complaint

The Monitor raised a complaint in relation to the WASP's unsubscribe process in terms of the clauses below.

In essence, the words "STOP" and "CANCEL" sent in response to sms's from the WASP failed to unsubscribe the monitor. In addition, the resultant sms's did not give unsubscribe instructions.

The relevant communication provided was:
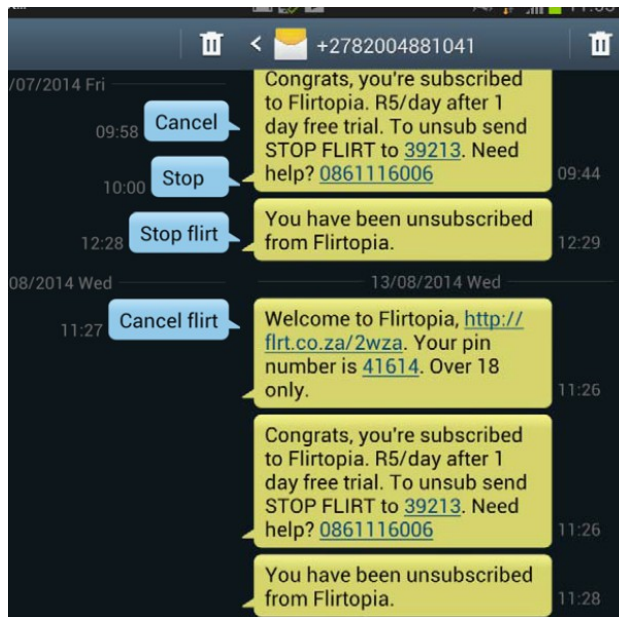
Service provider's response

Despite repeated requests and reminders, and promises on the part of the WASP, there is still no response in this matter before me.

The final communication on record promised a response by 5 September 2014, over a month ago.

Sections of the Code considered

The following clauses only were put to the WASP:

11.9.4 Where the words 'END', 'CANCEL', 'UNSUBSCRIBE' or 'QUIT' are used in place of 'STOP' in a request, the service provider must honour the opt-out request as is the word stopped has been used.

11.9.6 If a message sent by a customer cannot be parsed by a WASP, then the resulting response to the customer should contain sufficient information for the customer to be able to unsubscribe from that service, or to be able to contact the service provider's customer support.

Decision

The Clauses of the Code cited above are clear as to what should have occurred in this matter. The words "STOP" and "CANCEL" should, in terms of Clause 11.9.4, have been sufficient to cancel the service. However, given that they failed to do so, they should have at the very least elicited a response that provided correct opt-out instructions or customer support details in terms of Clause 11.9.6. The fact that the WASP had, earlier in the process, provided such instructions does not negate this requirement.

The words "STOP" and "CANCEL" and "CANCEL FLIRT" elicited no response – not an unsubscribe status nor directions on how to unsubscribe nor support contact details.

The WASP has put nothing before WASPA to address this complaint.

Based on the material before me I have no choice but to conclude that the WASP is in breach of Clauses 11.9.4 and 11.9.6.

Sanctions

This is a serious breach and appears to have resulted from s situation in which there was a previous heads up and attempt to resolve the matter.
In addition, the WASP in question appears to have a lackadaisical attitude to WASPA deadlines and responses. In at least two previous matters, the WASP has been taken to task for failing to provide sufficient logs.

Against this I considered that the WASP does not have an especially bad record of previous rulings nor has it been found to have breached these clauses before.

I therefore impose a sanction of R15 000 in respect of the breach of Clause 11.9.4 and R25 000 in respect of the breach of Clause 11.9.6.