



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Integrat
Information Provider (IP) (if any)	Glomobi
Service Type	Content subscription service
Source of Complaints	Mr M Van Meyeren
Complaint Number	3631
Date received	7 March 2008
Code of Conduct version	5.7

Complaint

The complainant alleges that he continued to receive content after unsubscribing from the service.

SP Response

The SP has acknowledged that the complainant was not unsubscribed but alleges that the reason for this was due to a technical difficulty with the unsubscribe functionality on its system. On request from the adjudicator, the SP furnished the following further explanation for the technical problem:

“Our client (IP) requested us to configure additional services on the short code in question in preparation for the launch of new services. During this process there was confusion in the understanding of the routing configurations and a setup error

occurred which caused the service in question to not respond to stop commands due to the service not receiving the commands.”

The SP states that the fault was remedied on the Monday, with the result that its client's services were only affected over that weekend.

The SP refers to 11.3.4 of a WASPA Advisory:Subscription Services which states as follows:

- A customer must always be able to unsubscribe from a subscription service. The unsubscribe functionality must therefore be available 24/7.
- It is possible that for some reason outside of the control of the service provider, the unsubscribe mechanism might be unavailable for a period of time long enough for a customer to be unfairly billed for a service. In these circumstances, any charges levied during the period in which a customer attempted unsuccessfully to cancel a subscription must be refunded.

The SP states that it has refunded the complainant in full, although this process was also delayed due to technical difficulties, resulting in the complaint being escalated from the informal complaint procedure to the formal complaint procedure.

Sections of the Code considered

11.3. Termination of a service

11.3.1. Instructions on terminating a subscription service must be clear, easy to understand, and readily available.

11.3.2. All subscription services must have a readily available unsubscribe facility which costs no more than one rand.

11.3.3. Customers must be able to unsubscribe from any subscription service via SMS using no more than two words, one of which must be 'STOP'.

11.3.4. Members must ensure that the termination mechanism is functional and accessible at all times.

Decision

Failing to unsubscribe a consumer from a subscription service is viewed seriously by WASPA. Where consumers do not have this ability, their confidence in the industry will be adversely affected.

Although the WASPA Advisory note referred to was issued in respect of a previous version of the Code and may no longer have any bearing on this complaint, I have taken it into account. On my interpretation of the Advisory note, the SP must first and foremost ensure that unsubscribe functionality is available to consumers at all times (24/7). The note does account for technical problems, in which case the consumer is entitled to a refund.

In the present matter, the SP has provided an explanation for the technical problems experienced which resulted in the STOP functionality for the service in question being disrupted. The SP states that the problems were rectified within hours of discovering same and that the consumer has been refunded for all charges levied after the service was cancelled.

I therefore find that the Code has not been breached.

It was noted that the SP experienced further difficulties which resulted in the consumer's refund being delayed. The SP is warned that should further complaints of this nature be made against it or any of its clients, it may not be able to successfully rely on technical problems to absolve it of responsibility.
