



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Clickatell
Information Provider (IP) (if any)	SA Funclub (TMG)
Service Type	Subscription services
Source of Complaints	Mr K Snijders / Flickswitch (Pty) Ltd
Complaint Number	4599
Date received	25 July 2008
Code of Conduct version	6.1

Complaint

This complaint was lodged via the WASPA website. The complainant is employed by another WASPA member.

The complainant alleges that he has been billed for a subscription service used by a previous user of the same number. The complainant alleges that the SP has breached section 11.2.5 of the WASPA code in that the billing has occurred after more than 3 months of inactivity on the service.

The complainant alleges that 7 months have lapsed since the number was reactivated and that the first billing from the IP was on 4 June 2008.

The complainant indicated in his complaint that he was not interested in obtaining a refund and that he wanted WASPA to sanction the breach of section 11.2.5.

SP Response

The SP has responded by referring to IP's response. The IP has responded by alleging that it has successfully processed billing for the relevant number in the months prior to 4 June 2008. The IP also states that it received no indication from the network operator that the number was no longer in use by the previous user who had subscribed to the IP's service.

The SP therefore denies that it has breached section 11.2.5 of the code.

Sections of the Code considered

Section 11.2.5:

A user must be removed from a subscription service if no successful bills have been processed for that service for more than three months, or if there is an indication from one of the mobile networks that the number is no longer in use.

Decision

Number recycling is common practice amongst the network operators. Although recycling is not expressly dealt with in section 11.2 of the code, subsection 11.2.5 makes provision for a user to be removed from a subscription service if the service provider has been unable to process a bill for a period of 3 months or if there is an indication from the network operator that the number is no longer in use.

In the current complaint, there is no evidence that the SP received an indication from the network operator when the previous holder of the number ceased using it.

There is a dispute of fact between the complainant and the IP as to whether there had been successful billing processed for the relevant service within 3 month intervals. The complainant alleges that the first time he was billed was 4 June 2008. The IP alleges that bills were successfully processed prior to this date, but has not provided any further information in this regard. In my opinion, it would have been a

relatively simple task for the IP to provide further evidence of successful billing prior to 4 June 2008. However it has failed to do so.

I therefore find that the SP has breached 11.2.5 by continuing to bill for this service beyond the prescribed 3 month period.

Sanctions

The IP has unsubscribed the complainant and has tendered a refund of the fees charged. The IP is ordered to settle the refund if it has not done so already.

The SP and IP are also hereby issued with a formal reprimand for continuing to bill for subscription services in contravention of section 11.2.5 and is warned that any further contraventions of this section will lead to stricter sanctions in future.