



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	SMSNET-SA
Information Provider (IP) (if any)	n/a
Service Type	Subscription service
Source of Complaints	C J van Rensburg
Complaint Number	5009
Date received	25 October 2008
Code of Conduct version	6.2

Complaint

The complainant lodged a complaint on 15 October 2008 via the WASPA website for alleged breaches of 7.2.1, 11.1.6, 11.2.5 and 4.1.3 of the Code on the following websites:

<http://waptrick.com>

<http://hugemob.com>

<http://freshmobile.co.za>

The complainant's concerns were:

1. The subscription site, Hugemob.com, advertises free game downloads and MP3 downloads between sexually explicit material, which is harmful to children.

2. The costs and terms and conditions of the clubs are pages below "Join Here", which exploits childrens' lack of experience.
 3. Is it moral to let a child subscribe to one of a few clubs that costs him R60.00 a month when he only receives R75.00 airtime a month?
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SP's response

The SP responded to the complaint as follows:

1. Hugemob.com is not specially designed for nor was it created to exploit or harm children. It is a subscription page model for mobile users who by their own interest choose to subscribe. It offers among others games, wallpapers, etc. for anyone who choose to subscribe. For any adult content that may be offered there is definitely an age restriction, eg. +18.
2. The SP states that its terms and conditions contain a provision that members must ensure that children accessing subscription services confirm that they have permission from a parent or guardian to do so.
3. The SP states that it does implement regulations governing that a user must be removed from its service if no successful bills have been processed 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.
4. The SP states further that its contact details are available on the subscription page, hugemob.com and the subscription sms that they send to subscribers which also has their help desk number and auto unsubscription number to which subscribers can send stop and get unsubscribed easily without having to call the call centre.
5. The SP contends that the complainant has confused its page with another site, as they do not have free sexually explicit materials. They simply say that with R15/week, you have access to our contents such as wallpapers,

animations, etc. with no extra cost. Furthermore, as much as all WASPS would want to act responsibly to protect minors against certain things, there is a limit to what they can do as there are issues beyond their control, eg. who uses the telephone at home and it is practically impossible to identify if the mobile user is a minor or an adult. The SP has a system of blacklisting a number and then the number cannot benefit from any of their services, which is a way of blocking children from accessing WASPS contents.

6. The SP referred to a positive resolution obtained for a complaint lodged against it under #4896 and invited the complainant to contact it directly in order to resolve the matter and ensure that the complainant was satisfied.

Sections of the Code considered

4. **Customer relations**

4.1 ***Provision of information to customers***

4.1.3 *Each member must provide their full contact details on the member's website, including the registered company name, telephone and fax numbers, e-mail address and physical address.*

7. **Children's services**

7.2 ***Prohibited practices***

7.2.1 *Children's services must not contain anything that is likely to result in harm to children or which exploits their credulity, lack of experience or sense of loyalty.*

11. **Subscription services**

11.1 ***Manner of subscription***

11.1.6 Members must ensure that children accessing subscription services confirm that they have permission from a parent or guardian to do so.

11.2 Termination of a service

11.2.5 A user must be removed from a subscription 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

I find that SMSnet-SA has complied with the relevant sections of the WASPA Code of Conduct relating to its subscription service.

The complaint is accordingly dismissed.