Wireless Application Service Provider Association

REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Sybase 365
Information Provider (IP) (if any)	mBill
Service Type	Competition / Subscription service
Source of Complaints	Anonymous
Complaint Number	5178
Date received	12 November 2008
Code of Conduct version	6.2

Complaint

The complainant lodged a complaint on 12 November 2008 via the unsubscribe facility on the WASPA website. The complainant was a subscriber to the SP's 3G iPhone Trivia service after entering the iPhone online competition on the website http://3giphone.mobefun.com.

The complainant has been unsubscribed but is claiming a refund.

SP's response

The SP has unsubscribed the complainant from the service but has failed to offer any refund.

Sections of the Code considered

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.

9. Competitions

9.1. Provision of information

9.1.1. Any promotional material for a competition service must clearly display the full cost to enter the competition and any cost to the user to obtain the prize.

9.3. General provisions

9.3.1. Competition services must have a specific closing date, except where there are instant prize-winners. An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.

11. Subscription services

11.1. Manner of subscription

11.1.2. Any request from a customer to join a subscription service must be an independent transaction, with the specific intention of subscribing to a service. A request from a subscriber to join a subscription service may not be a request for a specific content item.

Decision

This complaint is one of a number of complaints which have been lodged with WASPA regarding this service in terms of which the service in question has been held to be in contravention of sections 3.3.1, 3.3.2, 9.3.1 and 11.1.2 of the Code.

In respect of the current complaint, I also find that the subscription service contravenes section 11.1.2 of the Code. Despite being unsubscribed from the service, the complainant is also entitled to a refund for all charges levied to his account by the SP.

From the log records it appears that the complainant was charged 14 x R10.

Sanction

The SP is ordered to refund the amount of R140.00 (in South African rand only) to the complainant within 7 (seven) days of receiving notice of this adjudication report.