



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	Vodacom Service Provider (Pty) Ltd
Information Provider (IP):	Not applicable
Service Type:	Irregularities
Complainants:	Kevin Bothma
Complaint Number:	5225
Code Version:	6.2
Advertising Rules Version:	N/A

Complaint

The Complainant lodged the following complaint:

"Didn't receive acc from MTN dated 11/09/08. Saw on bank statement that R800,90 was deducted. After numerous calls to MTN(808) they e-mailed acc. Content charge of R372,87 on this acc. Received acc dated 11/10/08 on 22/10/08. Another content charge of R394,72 on this acc. Phoned MTN numerous times. Referred me to Cointel, Mobile 365 and Opera Telecom. Nobody can tell me what the charges were for. Just sent from pillar to post. Address on acc that I originally did not receive was changed to my Mothers name and address. Acc normally R100 to R150. - Please unsubscribe, provide proof of subscription and/or refund.."

According to logs supplied by Cointel, 3 stop request was sent by the complainant- 2008/09/01, 2008/09/20, 2008/10/16.

Service provider's response

The SP in this matter did not provide any response.

Sections of the Code considered

11.1.4. Customers may not be automatically subscribed to a subscription service as a result of a request for any non-subscription content or service.

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

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

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.

11.2.6. If a user ports their number from one operator to another, that number must be removed from all subscription services.

13.3.4. The member will be given five working days to respond to the complaint, and to provide any additional information the member deems relevant to the complaint.

13.3.5. If the member fails to respond within this time period, it will be assumed that the member does not wish to respond.

Decision

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her.

Without the SP providing any response the Adjudicator found that the SP in this matter is in breach of sections 11.2.3 and 11.2.4. It is also found that there might be a possible breach of section 11.1.4.

In doing so the Adjudicator has no alternative but to uphold the Complaint.

Sanctions

In determining an appropriate sanction, the following factors were considered:

- The prior record of the SP with regard to breaches of the relevant sections of the Code of Conduct; and
- The SP's neglect in providing a response.

The SP has not made any attempt in addressing the complaint and offered no formal response.

Consequently the Adjudicator orders that the Complainant be refunded in full by the SP in any alleged services rendered by the SP to the Complainant.

The SP is also fined R 15 000-00 for its breach of the various sections and ordered to pay this amount to the WASPA Secretariat within 5 days of receiving notice of this Adjudication.
