



REPORT OF THE ADJUDICATOR

WASPA Member (SP) SMSNET-SA

Information Provider (IP)

(if any)

Service Type Subscription service

Source of Complaints A Pope

Complaint Number 5352

Date received 5 December 2008

Code of Conduct version 6.2

Complaint

The complainant initially lodged an unsubscribe request via the unsubscribe facility on the WASPA website. The complainant was unsubscribed but the requested refund has been refused by the SP. The complaint has now been escalated for formal adjudication.

The complainant had previously contacted the SP and was advised that he had been subscribed to the service on 15 November 2008 at 10:00am with a Samsung E250 handset.

The complainant alleges that he uses a Nokia E51 and was cycling on that day and at the given time in the 94.5 cycle race. The complainant is absolutely sure that his phone or number was not used to subscribe.

The complainant alleges that he was charged an estimated R60.00 over a period of 10-14 days.

SP's response

The SP responded to the complaint on 15 December 2008 after receiving a reminder from the Secretariat. The SP alleges that the complainant subscribed for a Hugemob service for 2 (two) weeks with a total charge of R30. The SP has cancelled the subscription but has not offered any refund.

Sections of the Code considered

11. Subscription services

11.1.7. Once a customer has subscribed to a subscription service, a notification message must immediately be sent to the customer. This welcome message must be a clear notification of the following information, and should not be mistaken for an advert or marketing message:

- (a) The name of the subscription service;*
- (b) The cost of the subscription service and the frequency of the charges;*
- (c) Clear and concise instructions for unsubscribing from the service;*
- (d) The service provider's telephone number.*

11.2. Termination of a service

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

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

11.2.3. The 'STOP' request described above must be charged at the lowest tariffed rate available (with the exception of reverse billed rates).

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

Decision

Based on the statement made by the complainant, he was initially informed that he had been subscribed to a service known as "Samba trading" using a Samsung handset. The complaint states that he uses a Nokia handset.

The SP states that the complainant was subscribed to a Hugemob service. However no evidence has been placed before me confirming the subscription.

The complaint is accordingly upheld.

Sanction

The SP is ordered to correctly calculate all charges made to the complainant's account and to refund this amount within 10 (ten) days.