



## REPORT OF THE ADJUDICATOR

<b>WASPA Member (SP):</b>	eXactmobile
<b>Information Provider (IP):</b>	Not applicable
<b>Service Type:</b>	Unsubscribe Request
<b>Complainants:</b>	MNR E J HUISAMEN
<b>Complaint Number:</b>	5599
<b>Code Version:</b>	6.2
<b>Advertising Rules Version:</b>	N/A

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### Complaint

The Complainant lodged the following complaint:

The appended unsubscribe request was logged on the WASPA unsubscribe system and due to the fact that the complainant was not satisfied with the response the query was escalated to a formal complaint. Complainant request refund - He acknowledge he requested the ring tone but he says he didn't know whether it was a subscription service from the TV Ad.

The following actions were requested:

- SP requested to unsubscribe customer
  - SP requested to send an SMS confirming this unsubscribe
  - SP requested to provide proof of subscription
  - SP requested to contact customer regarding a refund
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### Service provider's response

In its response the SP stated the following:

"The user sent in a SMS to the short code 32223 in response to a TV ad. The SMS was sent on the 15 Sept 2008 at 22:35:00

A welcome message was sent to the user at 22:35:09. See below for the text.

A reminder message was sent on the 16th October 2008 to the user.

Therefore Exactmobile followed the WASPA rules in fulfilling its obligations to the user. For this reason no refund was offered to the client.

Reminder SMSs:

2008-09-15 22:35:09 - Welcome to MEGA TONES! To access all the specials, go to [www.exactmobile.mobi/mt](http://www.exactmobile.mobi/mt) (on WAP). See full MEGA TONES Terms & Conditions at [www.exactmobile.co.za](http://www.exactmobile.co.za).

2008-09-15 22:35:09 - The MEGA TONES Club costs R4.99/day. To unsubscribe at any time, sms STOP MT to 32223 (R1/SMS). Customer Care Line: 0822 302 222 (VAS Rates/No free mins).

2008-10-16 08:00:28 - Dear user, you're a member of MEGA TONES. Cost R4.99/day. Help: 0822 302222 (VAS Rates/No free mins). Get new content at [www.exactmobile.mobi/mt](http://www.exactmobile.mobi/mt) (on WAP)."

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### Sections of the Code considered

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 bundled with a request for a specific content item.

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### Decision

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her. The Adjudicator has taken note of the SP's response.

The actions requested by WASPA were complied with by the SP.

The Adjudicator is of the opinion that the SP has complied with the Code and has also provided the Complainant with sufficient reminders that he is indeed subscribed to a subscription service. The Complainant had therefore more than ample opportunity to unsubscribe and prevent any further costs should he have been under the impression that he was not subscribed to a subscription service.

The Adjudicator is of the opinion that the Complainant in this matter is trying to avoid paying the costs associated with the service delivery and concurs with the SP that a refund is not justifiable.

The Complaint is dismissed.

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