



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	Smartcall Technology Solutions
Information Provider (IP):	Mobimex Group
Service Type:	Subscription/Content
Source of Complaints:	Public
Complaint Number:	5696
Code Version (CoC and AR):	Code of Conduct 6.2 and Code of Conduct 7.4, Advertising Rules 2.3
Date of Request:	03 June 2009
Date of Adjudication:	29 July 2009

Complaint

1. On the 23rd January 2009 the complainant indicated that he had been subscribed to the SP's services without his consent. He further indicated that on telephoning the SP he was told that he had subscribed by accessing "some sort of link whilst using the Internet". He disputes that he should be required to prove that he did not access the service. He further indicates that the service apparently began in October 2008, but the most recent SMS was received by him on the 15th January 2009.
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SP Response

2. Firstly the SP never formally responded to the complainants allegations. However it did provide the following message to WASPA on the 23rd January 2009:

2.1. "The customer is unsubscribed. There is no refund offered, because he got unsubscribed normal (sic) and was billed for beeing (sic) subscribed to our service. He also downloaded a product. But we will contact the customer."

3. In addition the SP provided an image of the transactions that were allegedly performed

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by the complainant between the 25th October 2008 and 19th December 2008 which is attached hereto as annexure A. (Please note that this image has been modified to exclude the complainant's cell phone number but is otherwise unchanged).

Complainant Response

4. The complainant responded to the above response by the SP by indicating that he did not consider the proof that was supplied by the SP to be indicative of anything at all and requested that the exact URL be provided to him which he used to subscribe to the subscription service. Furthermore he wished to know how he could be billed for this kind of service without providing Vodacom (the mobile network operator involved) with written authorisation.
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SP's Second Response

5. In order to obtain more information a request for further information was issued to the SP and the Complainant. Specifically the SP was asked:
 - 5.1. *The SP has not provided the specific name of the subscription service that the complainant was allegedly subscribed to.*
 - 5.2. *The SP did not respond to the request by the complainant for it to provide the specific URLs that were used to subscribe the complainant.*
 6. The SP responded as follows:
 - 6.1. *"the customer was subscribed to our "South Africa Music Portal" service;*
 - 6.2. *the user came to our service by clicking on a banner ad posted via advertising agency. The url is <http://5ja.in/?dst=461165>, however the service is accessible only when the link is visited via mobile phone."*
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Complainant's Second Response

7. The complainant in turn was also requested to provide further information, to wit:

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7.1. It is unclear what service the complainant subscribed to as well as whether he received any messages from the SP at all. Clarification by the complainant in this regard is required.

7.2. The complainant alleges that he was billed for the subscription service but did not indicate what the total amount was, when the amounts began and what the monthly amounts were. Clarification by the complainant in this regard is required.

8. The Complainant responded by repeating his objections and indicating that he will provide the invoices over the weekend. To date (over a month later) no invoices have been received.

Further steps by Adjudicator

9. In order to evaluate the service the adjudicator then went through the various steps required to register to subscribe. These steps can be seen in annexure B.
10. At the point of step 5 the adjudicator telephoned the help line of 079 144 4605 in order to ensure that the adjudicator had not been subscribed to the service as, at that point, there had been nothing to indicate that he had in fact been subscribed. While the number was functional (after 9 rings) at 16h00 on the 21st July 2009 and it asked the adjudicator to text the word "stop" to the number of 36628 (note that this number differs from the shortcode of 39215 provided in the WAP message) if he wished to unsubscribe and thereafter a recorded message indicated that the mailbox was full and unable to record any message.
11. The adjudicator thereafter continued by selecting a Michael Jackson MP3 in order to see whether the adjudicator would be automatically subscribed to the service and was directed to step 7 where he was told:
- 11.1. "You don't have enough credits to purchase the product. You will be billed with R09 Rand messages for purchasing credits."*
12. On clicking "OK" no confirmatory message was provided that an amount of R9.00 had been debited to the adjudicator's account and he was merely redirected to the content items.

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13. Thereafter a message of “stop” was sent to 39215 in order to ensure that the adjudicator was no longer subscribed (although no subscription should have taken place as this was not specifically indicated by the IP).

14. Notwithstanding this on the 28th July 2009 an unsolicited message was received by the adjudicator indicating the following:

14.1. *HotGames Download*

14.2. <http://5ja.in/m11693969542466554.wml>

15. A further unsolicited message was received on the 28th July 2009 which read:

15.1. Thanks 4 using GsmVC! Find your soul mate or love send CHAT to 39215 and get access to the biggest SA dating platform. Content on its way!Problems?

help@gsm.vc

Further steps by WASPA Monitor

16. In order to assess whether a consumer who agreed to the above service was subscribed or not the adjudicator asked the WASPA monitor to access and assess whether a consumer would be subscribed or not, and further whether the consumer was charged R9.00 or R15.00 and whether any bearer costs would be apportioned to the consumer.

17. The full report from the WASPA Monitor is contained herewith as Annexure C. In essence the WASPA monitor confirmed that it was “subscribed” to the service and was charged an amount of R15.00 for “accessing” services that were not delivered or were broken.

Portions of the Code of Conduct (version 6.2) considered:

18. **4.1.1.** Members must have honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.

19. **4.1.2.** Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

20. **6.2.11.** For any transaction initiated via WAP, USSD, web-browsing, a link in an MMS or by an application:
- (a) If the transaction is billed at R10 or more, the member initiating this transaction must obtain specific confirmation from the customer and keep a record of such confirmation.
 - (b) If the transaction is billed at less than R10, the price for the transaction must be clearly indicated as part of, or immediately next to, the link or option that will initiate the transaction.
21. **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.
22. **11.1.3.** Where possible, billing for a subscription service must indicate that the service purchased is a subscription service.
23. **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.
24. **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.

Portions of the Code of Conduct (version 7.4) considered:

25. **3.1.1.** Members will at all times conduct themselves in a professional manner in their dealings with the public, customers, other wireless application service providers and WASPA.

26. **3.3.1.** Members will not offer or promise services that they are unable to provide.
27. **4.1.1.** Members must have honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.
28. **4.1.2.** Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.
29. **4.1.7.** Customer support must be easily available, and must not be limited to a medium that the customer is unlikely to have access to (for example, support should not be limited to email if a significant number of customers do not have access to email).
30. **4.1.8.** Any telephonic support must be provided via a South African telephone number and must function effectively. Should the member be unable to provide immediate support, a customer should be provided with the ability to leave a message. Support numbers may not forward to full voice mailboxes.
31. **5.1.5.** Once a recipient has opted out from a service, a message confirming the opt-out should be sent to that recipient. This message must reference the specific service that the recipient has opted-out from, and may not be a premium rated message.
32. **5.3.1.** Members will not send or promote the sending of spam and will take reasonable measures to ensure that their facilities are not used by others for this purpose.
33. **6.2.3.** Pricing must not contain any hidden costs. Where applicable, pricing for content services must include the cost of the content and indicate any bearer costs that may be associated with downloading, browsing or receiving that content.
34. **6.2.4.** Pricing contained in an advertisement must not be misleading. If multiple communications are required to obtain content, then the advertised price must include the cost for all communications required for that transaction. A clear indication must always be given that more premium messages are required.
35. **6.2.8.** Pricing on any promotional material must use one of the following generally accepted formats for prices in Rands: "Rx" or "Rx.xx".
36. **6.2.12.** For any transaction initiated via WAP, USSD, web-browsing, a link in an MMS or by an application:

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(a) If the transaction is billed at R10 or more, the member initiating this transaction must obtain specific confirmation from the customer and keep a record of such confirmation.

(b) If the transaction is billed at less than R10, the price for the transaction must be clearly indicated as part of, or immediately next to, the link or option that will initiate the transaction and must be visible on the same screen as the link.

(c) If the transaction is to initiate a subscription service, then the price and frequency of the service must be included directly in the text of the WAP link or immediately adjacent to it and must be visible on the same screen as the link.

37. **11.5.5.** Members must ensure that the termination mechanism is functional and accessible at all times.

38. **13.3.15.** Unless otherwise specified in the adjudicator's report, any sanctions will be considered suspended if an appeal is lodged, until the appeal process is completed.

Portions of the Advertising Rules (version 2.3) considered:

39. 9.3.1 ABBREVIATIONS

Indication	Correct Abbreviation	Wrong Abbreviation
Additional type & cost	+ 3 SMSs or + Rx.yy (include spaces)	+3 messages or +Rx.yy (no spacing shown)
At	At	@ (unless in an email address)
Cost	R1 : R1.50	R1.00 : R1.5
Day	Day	Dy
Message	SMS	Sms or msg or MSG or msgs or txt or txts
Minimum	Minimum	Min or Mnm
Minute	Minute	Min
Minutes	Minutes	Mnts
Month	Month	Mth
Months	Months	Mths
Pricing	R7.50/week	R7.5/wk or 7.5R / wk
Pricing per period	/	per
Rand Pricing	R7.50	R7.5 or 7.5R or ZAR7.5 etc
SMS Messages	SMS or SMSs	Sms or msg or MSG or msgs or txt or txts
SMS Received	Received	Rvcd or Rcd
SMS Sent	Sent	Snt
Subscription	Subscription	Subs, or Sub or Subscr
Week	Week	Wk or wk

40. 9.3.5 BEARER REQUIREMENTS & CHARGES:

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised

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service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text within the T&C box must indicate that additional bearer charges may apply.

Decision

41. In order to deal with this matter as comprehensively as possible this decision will be broken up into sections. Unless specifically stated all references to a CoC refer to version 6.2 of the WASPA Code of Conduct ("CoC").

SUBSCRIPTION SERVICES

42. This matter relates to the automatic subscription of members of the public and is a particularly sensitive area of WASPA complaints as it is open to the greatest abuse by Service Providers (SP) and Information Providers (IP).
43. In this matter the complainant alleges that he did not subscribe to the service and if he did he did inadvertently click on to a link, he was not notified of his subscription.
44. Clearly in this case, as the SP has indicated that the Complainant was "subscribed" the onus falls on the SP to prove that this particular complainant did request a specific service at a particular date and time.
45. To this end the SP provided "proof" (see annexure A) which appears intended to indicate that the complainant did subscribe to the service on the 25th October 2008.
46. A brief look at Annexure A makes it clear that the complainants cell phone number is contained in the annexure as well as a "WAP Menu(407)" and further on "Product_Set_SA_Billboard_Stars_W(529)". No explanation regarding these links or codes were provided. On the request of the adjudicator the SP provided the URL which the complainant would have (allegedly) clicked on in order to begin the process which is <http://5ja.in/?dst=461165>.
47. An examination of the service seems to indicate that a consumer would be able to request a specific item for a specific price or be subscribed to the service as a member. In this regard the WASPA Monitor's report is particularly helpful as this clearly indicates

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that the complainant must have been “subscribed” even though he would have, quite justifiably, not considered himself to have subscribed to this service.

48. As can be seen above the testing of the service by the adjudicator and by the WASPA Monitor the adjudicator was “subscribed” notwithstanding that a specific content item was requested. This service would clearly breaches clauses 11.1.2, 11.1.3 and 11.1.4 of the CoC in that:

48.1. The request to join the service was not an independent transaction (clause 11.1.2 of the CoC – otherwise known as “bundling”) in that a specific item was requested.

48.2. While there is reference to “Subscription Services at a minimum charge of R15 per week” this doesn’t indicate that the service purchased is a subscription service but rather that it is possible to purchase a subscription service. (Clause 11.1.3 of the CoC);

48.3. The Customer may is automatically subscribed to the subscription service notwithstanding he is requesting a specific item (Clause 11.1.4 of the CoC).

49. Notwithstanding a specific “STOP” message being sent to the IP involved (see clause 13 above) no confirmatory message was received by the adjudicator in breach of clause 5.1.5 of the CoC version 7.4.

RETENTION OF RECORDS

50. Clause 6.2.11 requires the SP to retain the record of specific confirmation provided by the customer. This record was never provided to the adjudicator despite two requests and as a result this section has been breached.

PRICE OF SERVICES

51. There is no reference to the bearer costs in the terms and conditions (see step 6a and 6b of Annexure B) which is a breach of s9.3.5 of the Advertising Code of Conduct and also breaches clause 6.2.3 of the CoC.

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52. The manner in which a customer does subscribe to the service in terms of step 4b of Annexure B and the lack of the correct shortcode in this message make the entire process unclear and ambiguous. While the shortcode issue is resolved later in later messages this ambiguity contravenes clause 4.1.2 of the CoC in that the SP cannot realistically claim that it did not know the way the service was set up was confusing and ambiguous.
53. The use of the incorrect abbreviation ("R09 Rand") is a contravention of clause of 9.3.1 of the Advertising Rules and clause 6.2.8 of the CoC.
54. The failure to provide the price and frequency of the subscription service breaches clause 6.2.11(c) of the CoC version 7.4.
55. The failure to indicate that more premium messages are required to obtain content breaches clause 6.2.4 of the CoC.

INABILITY TO ACCESS SERVICES OFFERED

56. As indicated in the WASPA monitor's report (see Annexure C) various services that were offered by the service were broken and/or not operational. This breaches clause 3.3.1 of the CoC.

ABILITY TO ACCESS CALL CENTRE/HELP DESK

57. There remains only to consider the import of the non-functioning call centre help line which was accessed by the adjudicator on the 21st July 2009. While this matter is dealt with in terms the Code of Conduct Version 6.2, the call centre telephone line was accessed after Code of Conduct Version 7.4 came into operation and as such this version of the code will apply to this aspect.
58. The inability by the adjudicator to leave a message is a clear breach of clause 4.1.8 (i.e. "Support numbers may not forward to full voice mailboxes") of the CoC Version 7.4.
59. Moreover the use of this telephone line as a method to discourage complaints by not providing an actual call centre service (as indicated by the word "call centre") but rather a pre-recorded message to stop subscriptions breaches clause 4.1.17 of the CoC version

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7.4.

SPAM

60. As indicated in clause 14 and 15 above, the IP in this case continued to send unsolicited commercial messages to the adjudicator notwithstanding the adjudicator having requested the service to terminate as described in clause 13 above. This breaches clause 5.3.1 of CoC version 7.4.

CONCLUSION

61. The service provided by the SP and IP in this instance is a particularly cynical attempt to exploit customers for considerable financial benefit. This service is a prime example of the type of service that WASPA should be at pains to terminate as soon as possible. These actions, taken together, are a good example of the type of unprofessional conduct that WASPA aims to prevent and as such, in aggregate, the IP has been found to be guilty of breaching clause 3.1.1 of CoC version 7.4.

Mitigation/Aggravation

62. In aggravation of the circumstances:

62.1. the SP was unresponsive and uncooperative. Moreover the vast number of the breaches of the CoC point to a cynical approach to exploit South African consumers.

62.2. It is noted that the IP in this matter was sanctioned for extremely similar subscription model in terms of Complaint 5816. In this adjudication the adjudicator admonishes the SP and IP to be more forthcoming with regard to the facts of the matter. Moreover clauses 11.1.2 and 11.1.4 were also apparently breached in this adjudication.

62.3. Complaint 4755 deals with both the same SP and IP and also deals with

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“Quadra Mobile Media Limited”. In this matter the adjudicator found there to be a breach of clause 6.2.3 (failure to mention bearer costs) and clause 4.1.1. (dealing fairly and accurately with customers).

62.4. This service which clearly breaches the CoC continues.

63. Reference is further made to the MANCOM advisory on sanctions which is referenced in Complaint 5460 where the following factors were considered to be additionally persuasive when considering suspension of services (amongst others):

63.1. Changing of effective pricing of a subscription service without prior or any notification to subscribers to that service of that change,

63.2. Consistently incorrect billing of a service from the price and frequency advertised, with a resultant effective increase in the pricing for that service,

63.3. Default judgments resulting from a continued lack of total response to requests from the WASPA secretariat, the WASPA Media Monitor, or an Adjudicator for responses to a number of separate, and not necessary linked, formal and informal complaints.

Sanction Imposed

64. As a result of the large number of clauses of the various codes of conduct that have been breached it is not considered to be appropriate to refer to the breaching of each clause in order to arrive at a sanction.

65. The following sanctions are imposed:

65.1. The South Africa Music Portal service and any service related to the URL of <http://5ja.in/?dst=461165> is immediately and indefinitely suspended. This sanction is specifically ordered to continue to operate in terms of clause 13.3.15 even if the IP and/or SP appeals this adjudication.

65.2. The South Africa Music Portal Service may only resume if all the breaches of the above clauses are rectified as certified by the WASPA Secretariat.

65.3. The IP (Mobimex Group) is suspended from WASPA in terms of clause 13.4.1 of

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the CoC version 7.4 until it is able to provide suitable proof to the WASPA secretariat that it complies with the following requirements:

65.3.1. It has a functioning call centre where a human person is able to speak to a customer;

65.3.2. In the event that the call centre agents are busy it is possible for the customer to leave a message and the mailbox is not full;

65.3.3. The STOP functionality is operational in its services;

65.3.4. It has systems to ensure that unsolicited messages are not sent to members of the public who have requested that a service be terminated; and

65.3.5. The IP is able to prove that it has the required systems to record and maintain the necessary records which it is required to keep in terms of clause 6.2.12 of the CoC version 7.4.

65.4. The SP is directed to refund the Complainant in this matter. Should the amount that the Complainant paid be unclear or be unverifiable, the IP will refund the Complainant the sum of R500.00.

65.5. The IP is fined the amount of R250 000.00 for the breaches of clauses indicated in the decision section of this adjudication. Should the IP fail to pay this fine within the required five day period then the SP will be liable to pay the said fine.

65.6. It should be noted that the breaches identified in this section are numerous, serious and repeated. Should the IP fail to show the necessary commitment to compliance with the WASPA Code of Conduct as evidenced by future complaints, it would be appropriate for the termination of the membership of the IP to be considered.

65.7. Finally it should be noted that the refunding of all subscribers was contemplated when considering the sanctions that were appropriate for this matter. However due to the difficult technical requirements relating to the refunding of such a large group of consumers it was deemed to be impractical to make such an order.

Appeal

Please note that should the SP or complainant wish to appeal this decision it must inform the secretariat of this within five working days of this decision in terms of section 13.6 of the Code of Conduct version 7.4.

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Annexures**Annexure A**

Date	MSISDN	Type	Menu/Prd. No:	Download(s)	Handset Details
15-Nov-2008 Sat 05:33	+ [REDACTED]	WAP Menu	407	2	IP:196.207.40.234 Nokia6234/2.0 (OS:4S) Profile/MIDP-2.0 Configuration/CLDC-1.1 UP.Link/6.5.0.0.06.5.0.0.0
Date	Product			Type	Session ID
25-Oct-2008 Sat 14:13	WAP Menu(407)			WAP Menu	1350439
19-Dec-2008 Fri 04:57	WAP Menu(407)			WAP Menu	2549509
19-Dec-2008 Fri 04:57	Product Set - SA_Billboard_Start_W(529)			Product Set	2549516

SP response to provide proof that the complainant subscribed to the service.

Annexure B**Step 1**

Internet Explorer

http://5ja.in/?dst=461165

MOB.VC

For security reasons please fill in your mobile number:
(Example: 0711122233,0811122233)

[Send](#)

Back  Menu

Step 2

Internet Explorer

http://5ja.in/?dst=461165

MOB.VC

Thank you!!
You will receive wap push link to the portal
in some minutes...

Back  Menu

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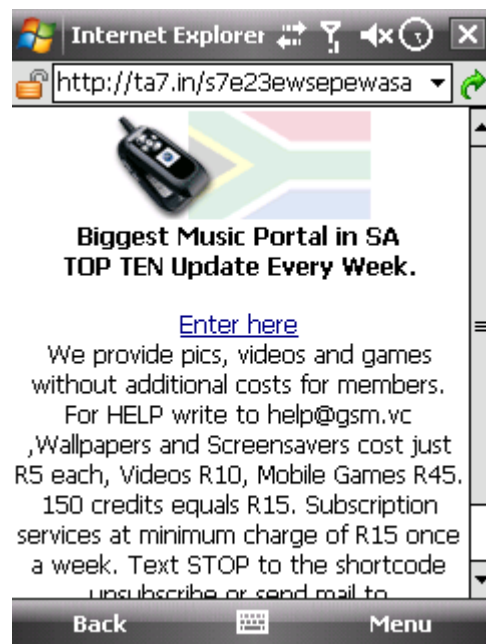
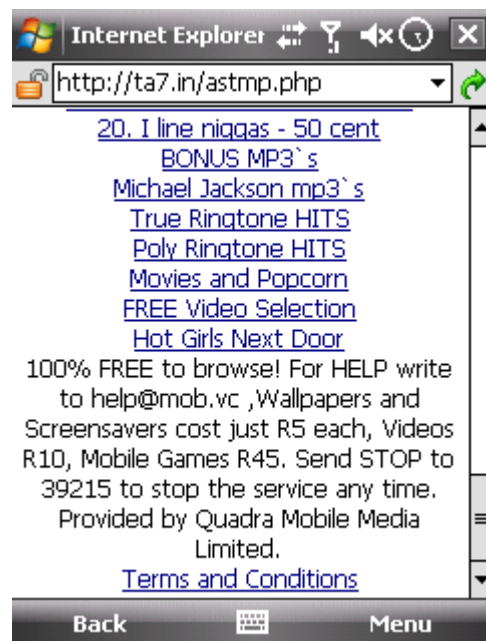
Step 3**Step 4a**

**Biggest Music Portal in SA
TOP TEN Update Every Week.**

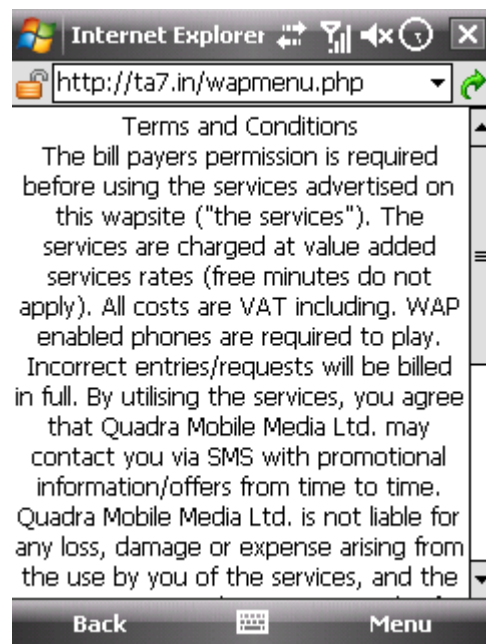
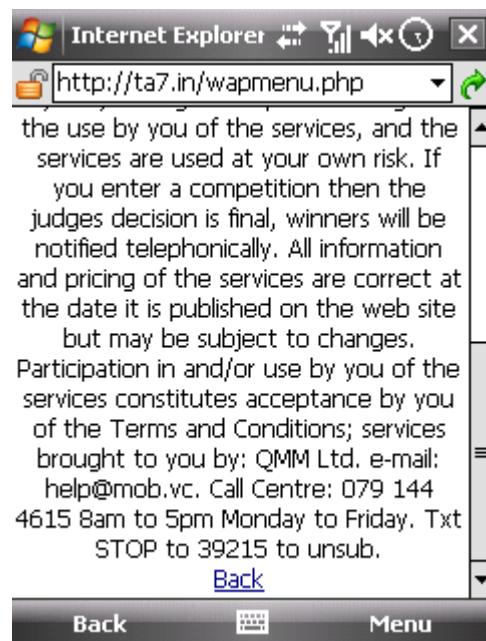
[Enter here](#)

We provide pics, videos and games without additional costs for members. For HELP write to help@gsm.vc ,Wallpapers and Screensavers cost just R5 each, Videos R10, Mobile Games R45. 150 credits equals R15. Subscription services at minimum charge of R15 once a week. Text STOP to the shortcode unsubscribe or send mail to help@gsm.vc
Service provided by Quadra Mobile Ltd.

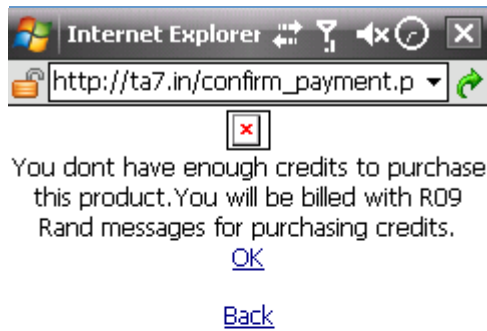
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Step 4b**Step 5**

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Step 6a**Step 6b**

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Step 7

Annexure C

DATE: 27 July 2009
PHONE NUMBER: **Number Removed by Adjudicator**
SERVICE PROVIDER: Quadra Mobile Media Ltd
SHORT CODE: 39215
STARTING BALANCE: R288.87
WAPSITE: <http://5ja.in/?dst=461165>

On the 23rd January 2009 the complainant indicated that he had been subscribed to the SP's services without his consent. The Service Provider then replied that the customer was subscribed to their "South Africa Music Portal" service, the user came to their service by clicking on a banner ad posted via advertising agency. The url is **http://5ja.in/?dst=461165**, however the service is accessible only when the link is visited via mobile phone. the adjudicator proceeded to test the service on Thursday 23rd of July and it was clear that the wap site still had a number of breaches. I then went onto the wap link in question, via a phone to check the workings thereof.

When going to the wap link above it took me to the landing page for South Africa's Biggest Music Portal:

**South Africas Biggest Music Portal.
Enter here**

I then clicked on Enter here

I scrolled down right to the end through all the selections and it said:

100% FREE to browse! For HELP write to help@mob.vc, Wallpapers and Screensavers cost just R5 each, Videos R10, Mobile Games R45. Send STOP to 39215 to stop the service at any time. Provided by Quadra Mobile Media Limited.

Terms and Conditions

I then clicked on **Terms and Conditions**:

Terms and Conditons.

The bill payers permission is required before using the services advertised on this wapsite ("the services"). The services are charged at value added services rates (Free minutes do not apply) all costs are VAT including. WAP enabled phones are required to play. Incorrect entries/requests will be billed in full. By utilizing the services, you agree that Quadra MOBILE Media Lit. may contact you via SMS with promotional information/offers from time to time. Quadra Mobile Media Ltd. Is not liable for any loss, damage or expense arising from the use by you of the services, and the services are used at your own risk. If you enter a competition then the judges decision is final. Winners will be notified telephonically. All information and pricing of the services are correct at the date it is published on the web site but may be

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subject to changes. Participation in and/or use by you of the services constitutes acceptance by you of the Terms and Conditions: services brought to you by: QMM Ltd. E-mail: help@mob.vc. Call Centre: 079 144 4615 8am to 5pm Monday to Friday. Txt STOP to 39215 to unsub.

I clicked on a few different music links of the Top 20 and four of them said: Page not found. I finally found one that worked and clicked on:

MGMT Electric Feel from Oracular Spectacular to download.

It said:

You don't have enough credits to purchase this product. You will be billed with **R09 Rand** messages for purchasing credits. **OK**

So I clicked on **OK**.

And the link changed to a different song:

Title: **Take It To The Hotel**

Singer: **R.Kelly**

Genre: **Dance**

Orderlink

[Download MP3](#)

[Home](#)

I noted that this was not the song I wanted, so I went back a page and the same selection popped up once again so I had no choice but to click on this song to download so I could test the service. I then clicked on **Download MP3**.

It downloaded to music files, as soon as the download ended it said:

File content not supported.

I then exited the site and checked my balance which was R271.33 so **R17.54** had been deducted.

When I tried to open the downloaded mp3 it said: **File format not supported.**

I then went onto my Vodacom4me balances overview and it clearly states:

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The screenshot shows the Vodacom4Me website in a Microsoft Internet Explorer browser. The page displays a transaction history table with the following data:

Transaction	Start Date/Time	Source	Destination	Duration (seconds)	Volume	Amount	Roaming	Discount
1 Online Content	2009-07-27 09:05:19	-	-	0	-	R-15.00	No	0
2 GPRS	2009-07-27 08:59:50	-	Internet	1044	1329152	R-2.54	No	0
3 Recharge	2009-07-27 09:34:04	-	-	0	-	R-275.00	No	0
4 Online Content	2009-07-27 09:26:44	-	-	0	-	R-10.00	No	0
5 Call	2009-07-26 12:04:09	-	0724423074	26	-	R-0.02	No	54
6 SMS	2009-07-26 11:27:08	-	0729429060	0	-	R 0.00	No	0
7 Call	2009-07-26 11:25:32	-	0720013171	25	-	R-0.05	No	50
8 Call	2009-07-26 11:26:32	-	0077777194	2	-	R-0.05	No	54
9 Call	2009-07-26 11:19:02	-	0729429060	54	-	R-1.31	No	50
10 Call	2009-07-26 11:14:00	-	0724423074	50	-	R-1.62	No	54

Which shows my last two transactions from this morning to be: **R2.54** for the browsing fee and **R15** for the content deduction.

Conclusion:

On testing the wap site in question I noticed a number of breaches. Firstly on entering the South African Music Portal site, I had to click on a number of different "Top 20" songs as each one I clicked on said: "**Page not found**" when I eventually found a song that worked "**MGMT Electric Feel**" it told me:

You don't have enough credits to purchase this product. You will be billed with **R09 Rand** messages for purchasing credits. **OK**. I noticed that the price of the product was unclear as it said R09 Rand messages for purchasing credits and should have said something along the lines of: charge is **R9 a song**. I clicked on OK none the less and the downloading page changed the song completely to "**R Kelly Take It To The Hotel**". I clicked on BACK twice and re clicked on the MGMT selection and each time it went back to R Kelly. This time I clicked on download and once the file had completed downloading it said: **File content not supported**. I checked my balance and R15 was deducted, and not the alleged R9 cost as was suppose to be deducted.

Also it was clear that the different Top 20 links were not working properly as four different selections said: Page not found, and once I finally found one song that I could click on from the list, and continued to the download site it changed the song completely so I was not able to get the content I requested anyway. There is also use of abbreviations in the T&Cs which are breaches of the advertising rules as shown below. I proceeded to sms STOP to 39215 just in case I was subscribed to a service, but received nothing in return.

Breaches of the Code of Conduct:

3.3.1. Members will not offer or promise services that they are unable to provide.

4.1.1. Members must have honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.

4.1.2. Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

6.1.1. In addition to the provisions listed below all members are bound by the WASPA Advertising Rules, published as a separate document.

6.2.3. Pricing must not contain any hidden costs. Where applicable, pricing for content services must include the cost of the content and indicate any bearer costs that may be associated with downloading, browsing or receiving that content.

6.2.4. Pricing contained in an advertisement must not be misleading. If multiple communications are required to obtain content, then the advertised price must include the cost for all communications required for that transaction. A clear indication must always be given that more premium messages are required.

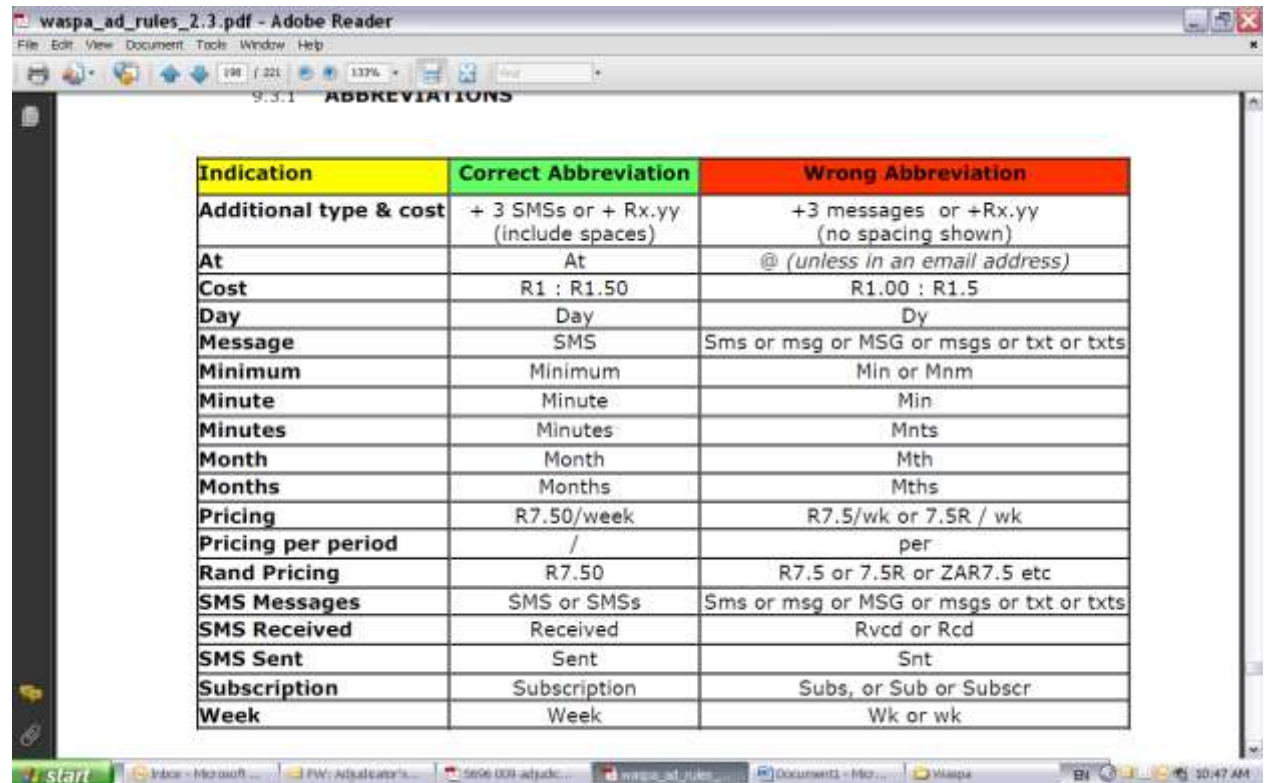
6.2.8. Pricing on any promotional material must use one of the following generally accepted formats for prices in Rands: "Rx" or "Rx.xx".

6.2.12. For any transaction initiated via WAP, USSD, web-browsing, a link in an MMS or by an application:

(a) If the transaction is billed at R10 or more, the member initiating this transaction must obtain specific confirmation from the customer and keep a record of such confirmation.

(b) If the transaction is billed at less than R10, the price for the transaction must be clearly indicated as part of, or immediately next to, the link or option that will initiate the transaction and must be visible on the same screen as the link.

(c) If the transaction is to initiate a subscription service, then the price and frequency of the service must be included directly in the text of the WAP link or immediately adjacent to it and must be visible on the same screen as the link.

Breaches of the Advertising Rules:**9.3.1. Abbreviations:**


Indication	Correct Abbreviation	Wrong Abbreviation
Additional type & cost	+ 3 SMSs or + Rx.yy (include spaces)	+3 messages or +Rx.yy (no spacing shown)
At	At	@ (unless in an email address)
Cost	R1 : R1.50	R1.00 : R1.5
Day	Day	Dy
Message	SMS	Sms or msg or MSG or msg or txt or txts
Minimum	Minimum	Min or Mnm
Minute	Minute	Min
Minutes	Minutes	Mnts
Month	Month	Mth
Months	Months	Mths
Pricing	R7.50/week	R7.5/wk or 7.5R / wk
Pricing per period	/	per
Rand Pricing	R7.50	R7.5 or 7.5R or ZAR7.5 etc
SMS Messages	SMS or SMSs	Sms or msg or MSG or msg or txt or txts
SMS Received	Received	Rvcd or Rcd
SMS Sent	Sent	Snt
Subscription	Subscription	Subs, or Sub or Subscr
Week	Week	Wk or wk

9.3.5 BEARER REQUIREMENTS & CHARGES:

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text within the T&C box must indicate that additional bearer charges may apply.