



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	Buongiorno UK
Information Provider (IP):	Not applicable
Service Type:	IVR line without content
Complainants:	Monitor
Complaint Number:	6803
Code Version:	6.2
Advertising Rules Version:	N/A

Complaint

The Monitor wrote:

"The Funky Fone service used to provide content via an IVR line. It appears that this old IVR line has been "kept alive", but is not delivering any content. This, in my opinion, displays an unethical way of receiving revenue.

The voice recordings plays: home menu, a hold blurb, then loops back to the menu. This service is still advertised on the vodaworld site <http://www.vodaworld.co.za/showarticle.asp?id=1041>

This service must be suspended immediately."

In the report the Monitor stated the following:

"We received a complaint stating that the Funky Fone IVR line that is advertised on the vodaworld website is not functioning properly. Therefore I tested the service myself.

I phoned the number in question: 082 288 88 88

***beep* Welcome to funky fone powered by iTouch. For ring tones and graphics press one. For secret sms press two. For astro line press three. For mystery sms press four.....**

So I then pressed one for ringtones and graphics... the voice recording said:

Your Escape from boredom is just seconds away, the latest ringtones, picture messages and graphics will soon be yours. Get ready to turn your phone into a monster phone your time has come

I tried this four times and pressed one each time, it just re-routed me back to the first voice prompt (main menu. The call duration was 3 mins and 16 secs. My starting balance before I made the call was R134.55 and my new balance was R122.85 so it cost me **R11.70**.

I tried calling one more time, this time pressing two for secret sms...

The same first voice recording went as follows:

***beep* Welcome to funky fone powered by iTouch. For ringtones and graphics press one. For secret sms press two. For astro line press three. For mistery sms press four.....**

I then pressed two for a change (secret sms) and the exact same voice recording played:

Your Escape from boredom is just seconds away, the latest ring tones, picture messages and graphics will soon be yours. Get ready to turn your phone into a monster phone, your time has come.

It once again re routed me to the same welcome voice recording as before:

This time the call duration was 1 min and 9 sec. My starting balance before I made the call was R122.85 and my new balance after the call was R118.77 so it cost me **R4.08**.

Conclusion:

One can see by the above attempts that the Funky Fone service customer number is clearly not working. Also there is no pricing information whatsoever, stating prices of the different services that are not working or pricing information for the downloads etc.

It is clear that this line is making money without having to deliver any sort of content.

I would like to also request the following:

1. This line must be suspended immediately
2. The service provider supply the number of calls and call durations received everyday (from when line was meant to be in-active)
3. Adjudicators to please consider refunds to all customers calling the un-operational IVR line."

In its response to the SP's reply the Monitor wrote:

"The fact remains that this line is very much alive. And every second on the line is generating revenue. Surely that revenue must have been picked up by

someone since December 2008? Our test proves that monies were deducted and that this is not a de-activated line.

Please proceed to adjudication.”

In its final response the Monitor wrote:

“The point is that even if they kill this line completely, I still want this case to proceed to adjudication as, in my opinion, their intentions are not above board.”

Service provider's response

In its initial response the SP stated the following:

“We thank you making this matter known to us.

Please be advised that the IVR Lines had to have been deactivated, as of the **1st December 2008**, as per the mail trail below and migrated to the new platform. These were to have been done with a few IVR Numbers, which in this case this case the number has been deactivated but not removed from the providers web adverts.

Unfortunately we are not responsible for the web advertised page nor the updating and have informed the provider to remove our data from their web page with immediate effect.

Currently awaiting feedback in this regard.”

In its final response the SP wrote:

“Please be advised that the IVR number 082 288 88 88 is no longer available. The number rings but the call ends not making it possible for the user to follow any voice prompts. We hope that this is to your satisfaction, as the line can be tested should you so wish.”

Sections of the Code considered

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.

Decision

In adjudicating a matter the Adjudicator has to rely on the information provided to him / her.

In this matter the Adjudicator has taken note of the complaint lodged and the SP's subsequent response.

The SP has acknowledged its mistake and the Adjudicator therefore find the SP in breach of section 3.1.1 of the Code.

The Complaint is partially upheld.

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;
- The SP's subsequent conduct.

The response offered by the SP does not address the problem and although remedial actions have been taken, the Adjudicator is not of the opinion that the SP has acted professionally in ensuring that the line was indeed de-activated.

The SP is fined R 20 000 for its breach of section 3.1.1 of the Code.

The SP is also instructed to:

1. Suspended the line immediately;
 2. To supply the number of calls and call durations received everyday (from when line was meant to be in-active) to the WASPA Secretariat; and
 3. Refund all customers that called the un-operational IVR line.
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