REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Smartcall Technology
Information Provider (IP) (if any)	Lessa Mobile
Service Type	Subscription
Source of Complaints	Mr L Munian
Complaint Number	9904
Date received	8 July 2010
Code of Conduct version	9.0

Complaint

The complainant logged an unsubscribe request via the WASPA unsubscribe facility on 21 June 2006. The complainant was not satisfied with the IP's response and a complaint was then lodged via the formal complaint procedure.

The complainant initially requested proof of subscription, details of the URL that was accessed, and the content that was downloaded.

He was provided with subscription logs and details of the URL that was accessed. The complainant denies that he, or any of his children, accessed the given URL and/or subscribed to the relevant service.

The complainant attempted to access the service after this complaint was lodged. After entering his number, he was not granted any further access. He relies on this as further proof that he did not subscribe to the service.

IP's response

The IP provided logs showing how the subscription was activated. It appears from the logs that the complainant's number was entered on the site: http://da5.in. A verification sms was then sent to the entered number with a link. Once the number was verified, the complainant was subscribed to the service.

A welcome message was sent to the complainant's number as follows:

"Welcome 2 Erotic Chat! Help? support@lessa-mobile.com or call 0115074630. SMS STOP to 42361 to unsubscribe. Subscription cost R9.99/3 days Age:18."

The complainant was billed once but then unsubscribed. A unsubscribe confirmation message was sent to the complainant's number.

The IP states that the complainant was unable to subscribe to the service a second time because he had already been blocked from the system.

The IP refunded the amount of R9.99 to the complainant.

Sections of the Code considered

11. Subscription services

11.2. Subscription process

11.2.4. If a subscription service is initiated by entering a customer's mobile number on a web page or WAP site, then a separate confirmation message must be sent to the customer's mobile handset in order to prove that the number entered matches the customer's mobile handset number. This message may either:

   (a) contain a PIN number which is then confirmed or validated on the web page, or

   (b) contain a URL with a unique identifier, which, when clicked, validates the handset number.

11.4. Welcome message

11.4.1. 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.

11.8. Termination of a service

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

11.8.2. Customers must be able to unsubscribe from any subscription service via SMS using no more than two words, one of which must be 'STOP'. If a reply could pertain to multiple services, either all services should be terminated, or the recipient should be given a choice of service to terminate.

11.8.5. Where a service is linked to a specific short code in advertisements for that service, then sending a 'STOP' request to that short code should result in the termination of that service. If a request to a short code could pertain to multiple services, either all services should be terminated, or the recipient should be given a choice of service to terminate.

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

11.8.9. When a customer has requested that they be unsubscribed from a service, an unsubscribe notification must be sent to that customer, and must use the following text format, flow and wording:

You've been unsubscribed from [service name].

or

You've been unsubscribed from [service name]. To resubscribe [service activation instructions]. You'll then be resubscribed at [cost of service and frequency of billing].

11.8.12. If a consumer lodges a request with WASPA to be unsubscribed from a subscription service, the WASPA member concerned must honour that request within two working days (48 hours) of that request being passed on by WASPA.

11.9. Subscription service directory and logs

11.9.1. Members must register all subscription services with WASPA, by providing the following information:

(a) the name of the service;
(b) the short code or access method (e.g. WAP) the service uses;
(c) the price and frequency of billing for that service;
(d) the customer support number associated with the service; and
(e) unsubscribe instructions for the service.

11.9.2. When requested to do so by WASPA, a member must provide clear logs for any subscription service customer which include the following information:

(a) proof that the customer has opted in to a service or services;
(b) proof that all required reminder messages have been sent to that customer;
(c) a detailed transaction history indicating all charges levied and the service or content item applicable for each charge; and
(d) any record of successful or unsuccessful unsubscribe requests.

Decision

I am satisfied from the IP's logs that a valid subscription process took place and that the IP has not contravened any of the provisions of the WASPA Code.

The complaint is accordingly dismissed.