



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	BEE Mobile
Information Provider (IP):	N/A
Service Type:	Message format
Complainant:	Competitor
Complaint Number:	12196
Code Version:	10.0
Advertising Rules Version:	N/A

Complaint

Complaint was logged by a competitor on 2011-03-02 regarding message format. The Complainant in its initial complaint indicated that the SP failed to use the word “day” and used “p/d” instead, which is contrary to the Code.

In its later reply to the SP’s response, the Complainant indicated that the words “Re NO to stop” is not clear and therefore opted for the complaint to go ahead.

Service and Providers’ response

The SP in its initial response confirmed its error and immediately indicated that it will amend the format to comply with the Code.

After a request by the Secretariat, the SP provided the Secretariat with its amended version.

Sections of the Code considered

11.6.5. The cost of service and frequency of billing must use the format “RX/day”, “RX/week” or “RX/month” (or RX.XX if the price includes cents). No abbreviations of “day”, “week” or “month” may be used.

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

11.9.2. 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.

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 Complaint and the SP's formal response.

The adjudicator has to commend the SP in this matter for its fast response and subsequent effort in aligning itself to the Code.

This does however not deter from the fact that the SP in this matter had in fact committed various breaches of the Code.

With limited information available on the Advertising rules under SMS and MMS, and only having been able to rely on section 9 of the Advertising Rules and section 11.6 of the Code, the Adjudicator is of the opinion that it is prevalent that the word "day" must be used instead of the acronym "p/d" which might lead to confusion.

The Complainant in this matter in his / her further reply to the SP's initial response and rectification of the message format did not indicate that he / she wants to pursue the issue of the word "day" any further, which the Adjudicator in this matter feel has been resolved.

What is at stake and remains relevant is the remainder of the format, and more specifically the wording displayed to unsubscribe. The Adjudicator is of the opinion that the wording and instructions are not clear and might create confusion. By using the word "Re" instead of "Reply" or "Send", the Adjudicator is lead to believe that such use plus the use of "NO" instead of "STOP" might create ambiguity among potential subscribers or future users of the system.

It is also unclear whether in fact the service of the SP would be compliant to section 11.9.2 which states that 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.

The Complaint is 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 SPs' subsequent response.

The SP is formally reprimanded for its breach of section 11.9.1.