



## REPORT OF THE ADJUDICATOR

<b>Complaint reference number:</b>	14776
<b>WASPA member(s):</b>	Smartcall Technology Solutions (SP) (0090) JP Consulting (IP) (1192)
<b>Membership number(s):</b>	See above
<b>Complainant:</b>	Public
<b>Type of complaint:</b>	Subscription Service
<b>Date complaint was lodged:</b>	2011-09-08
<b>Date of the alleged offence:</b>	2011-0
<b>Relevant version of the Code:</b>	10.0
<b>Clauses considered:</b>	
<b>Relevant version of the Ad. Rules:</b>	N/A

**Related cases considered:** 13243 and  
13244

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### Complaint

Complaint 14776 was logged by a complainant regarding an unsolicited sms message she received via an international gateway resulting in subscription service.

I will set out details of the complaint in summary due to the fact that the facts are very similar to those in case 13243.

The complaint progressed as follows:

- Complaint 14766 is the escalation of unsubscribe request 1781020 regarding subscription service charges.
- The formal complaint was sent to the IP on 2011-09-08. The SP was also notified.
- SP requested extension on 2011-09-13 which was granted.
- The SP responded on 2011-09-16.
- The complainant responded on 2011-10-11, refusing resolution.
- The SP provided further feedback on 2011-10-18.

The Complainant alleges that she noticed that she was automatically subscribed to a service without her consent and certain unauthorised charges billed to her account. She requested information relating to where the service provider had obtained her details from.

In summary the complaint sets out the following having been breached:

- Subscription process flawed; and
  - Automatic subscription.
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### **Service provider's response**

The SP referred the complaint to the IP.

They have also already suspended the service and the IP pending a full investigation by the SP.

They refunded the Complainant in full on 2 August 2011 and confirmed that her number was unsubscribed.

They furthermore indicated that this matter is part of the infringement adjudicated and dealt with in terms of case 13243.

### **Information provider's response**

The IP did not respond and they are currently suspended.

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### **Sanctions**

I am not going to sanction the SP or the IP in this case. Although the IP would probably be found to have infringed the Code, due to the fact that this matter has already been adjudicated on in case 13243 this cannot be considered to be a separate infringement. The IP has already been sanctioned for this infringement and accordingly I cannot sanction them again.