



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Mira Networks
Information Provider (IP) (if any)	www.sms.ac
Service Type	Free SMS service
Source of Complaints	Michelle (via Vodacom)
Complaint Number	1667
Date received	3 July 2007
Code of Conduct version	5.2

Complaint

The complainant, Michelle, lodged a complaint with Vodacom regarding billing to her account for services rendered by the IP. Vodacom then appears to have lodged an informal complaint with the WASPA Secretariat on 3 July 2007. The complaint has been referred to me as a formal complaint.

The substance of the complaint is that the complainant has tried unsuccessfully to unsubscribe from the IP's free SMS service. Not only is it alleged that the unsubscribe procedure is intentionally made difficult by the IP to increase revenue but that further billable messages were sent to the complainant after she attempted to unsubscribe.

It is noted that there is no information on how the complainant came to be registered for the service in the first place. From the complaint made to Vodacom, it appears that the complainant did register for the service but did not take into account or read and understand the IP's standard terms and conditions for the service in question.

SP Response

On 24 July 2007, the IP notified the Secretariat that they were resolving the complaint with the complainant directly and that there would be a full refund of all costs to the complainant.

On 25 July 2007, the SP notified the Secretariat that it had suspended the services of the IP pending the SP's own investigation.

Sections of the Code considered

I have considered the following sections of the Code:

Section 3 (3.1; 3.3; 3.9);

Section 4;

Section 5;

Section 6.2.3; and

Section 11.

Decision

From the outset it should be noted that a large number of similar complaints have been lodged with WASPA regarding this IP and in particular it's free SMS services. Each of the complaints dealt with the same issue, i.e. the lengthy and costly unsubscribe procedure and the forwarding of further messages after the complainant has instructed the IP to unsubscribe them from the service.

This is again the case in the present complaint. Although the IP has offered to refund the complainant for any costs incurred, there is no proof before me that this has been done.

In any event, it is clear that the IP has contravened the WASPA Code, and in particular sections 5.1.3 and 10.3.

Sanction

As per my ruling in a previous complaint, the SP has already been ordered to terminate the services of this IP.

The IP is also requested to provide the Secretariat with written confirmation that it has in fact refunded the complainant in full.