

WASPA Member (SP)	Cointel
Information Provider (IP)	N/A
Service Type	Unlawful Conduct
Source of Complaint	Reshma Sewrajbally
Complaint Number	#4400
Code of Conduct Version	5.7
Date of Adjudication	14/07/2008

Complaint

The Complainant in this matter argued that she never subscribed to scoreme and therefore felt that the charges levied against her was done in error. She should subsequently, according to her, be allowed a refund.

SP Response

In its response the SP felt that the user of the phone did indeed subscribe to the service and provided subsequent proof, therefore arguing that no refund is due.

Sections of the Code considered

The following sections of version 5.7 of the Code of Conduct were considered:

3.1.2. Members are committed to lawful conduct at all times.

Decision

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her.

In this particular instance, the Complainant claimed that she never subscribed to the said service and has therefore been billed in error.

In its response however, the SP provided proof of such subscription and does it seem from the records provided, that the user of the phone did indeed enlist the services.

There can therefore be no solid indication that there was indeed any breach of the Code of Conduct, and more specifically section 3.1.2 thereof.

Although the owner of the phone claimed non-subscription, it remains the responsibility of the phone owner to control access to his/her phone. As in this case, it seemed that someone other than the actual owner subscribed. The owner however had the opportunity to unsubscribe during the 7 day trial and could therefore have stopped the whole process. An actual message was sent to the number bringing it to the attention of the user. Further, according to the SP's client service, the owner of the phone initially agreed to the make of the phone, but later in an email gave a different description of her phone. This evidence remains inconclusive. No refund is required by the SP.

The Complaint is therefore dismissed.

For clarity purposes, the Adjudicator feels that the SP must indicate reasons why its system reflects a Nokia 6230i while the user claims her phone is a Nokia 6300. Such information must be made available to the WASPA Secretariat within five days of receiving this adjudication.
