



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	TIMw.e. New Media Entertainment South Africa
Information Provider (IP):	Not applicable
Service Type:	Unsubscribe Request
Complainants:	Mrs Ratecliff
Complaint Number:	8071
Code Version:	7.4
Advertising Rules Version:	2.3

Complaint

The Complainant stated that she never subscribed to any service. The reason for escalation is the following:

“The Customer is not happy with the outcome as she never ever entered any pin code on any sight.”

Service provider’s response

The SP provided the following response:

“Please find attached the proof of subscription. The client applied 5 times for the pin code before inserting the mobile number and activating the service. There was probably a delay sending the pin code.”

Sections of the Code considered

11.1.7. 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.

11.1.8. A monthly reminder SMS must be sent to all subscription service customers containing the following information:

- (a) The name of the subscription service;
- (b) The cost of the subscription service and the frequency of the charges;
- (c) The service provider's telephone number.

11.1.9. The monthly reminder SMS must adhere to the following format:

- (a) The monthly reminder must begin with either "Reminder: You are a member of NAME OF SERVICE" or "You are subscribed to NAME OF SERVICE".
- (b) Any marketing for a new service must appear after the cost and frequency of the existing service and the service provider's telephone number.

11.1.10. Once a customer has subscribed to a subscription service, neither the amount and frequency of the charges nor the frequency of the service may be increased without the customer's explicit permission.

11.1.11. The format of the both the initial notification message and the monthly reminder should comply with the relevant section of the WASPA Advertising Rules.

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 subsequent response.

The SP has provided proof of the subscription and further evidence that the Complainant in this matter has in fact requested the pin 5 times.

The Complainant however claims that she never entered any pins.

These facts read together with the logs provided reflect contradictory evidence and boils down to the typical scenario of I said this you said that.

In the absence of any real concrete evidence from the Complainant in this matter the Adjudicator cannot find in favor of the Complainant.

The Adjudicator is of the view that the Complainant in this matter had more than ample time to unsubscribe, procedures of which was communicated by the SP via monthly reminders as is requested by section 11.1.8 of the Code of Conduct.

The Complainant has at the time of this decision been unsubscribed and the Adjudicator does not deem a refund necessary, due to the fact that no irregularities were found on behalf of the SP in terms of the Code of Conduct.

The Adjudicator would however like to bring it to the attention of the SP that it must make it clear to its subscribers in ALL its communications that they can be unsubscribed by way of SMS, and not as reflected currently where on all occasions apart from the monthly reminders, it only refer to its *121* number.

The Complaint is dismissed.
