



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Starfish Mobile
Information Provider (IP) (if any)	N/A
Service Type	Unsolicited SMS
Source of Complaints	Public
Complaint Number	#0121

Adjudicator's Note

This Complaint is closely related to that adjudicated on under Complaint #0120 which was in regard to similar subject matter and originated from the same Complainant but was in respect of a different Service Provider. Neither complaint was upheld.

Complaint

The following Complaint was submitted by a member of the public on 16 January 2006:

"I received the following SMS:

"Please Call Susan at 0764908626. Need to tell someone how much you love them. SMS LOVE to 34818 for a love message. Cost R2 SMS"

This message was unsolicited. This is Spam and I suspect it is also a money making scam."

The Complainant stated that he did not know "Susan".

SP Response

The SP's response, received by the WASPA Secretariat on 24 January 2006, is as follows:

"It appears that the client has misunderstood the SMS he was sent.

The SMS discussed below are the so called "Please Call Me" that the operators provide as a service to their customers.

In addition to that, the operators in South Africa has availed the remaining space on these Please Call Me notifications for advertising of SMS services.

The only portion concerning Starfish Mobile is the LOVE message service running on the short code 34818.

We will contact the client and explain the structure and that it is an advert for content downloading attached to the Please Call Me message he was sent from the girl called Susan."

True to its word the SP contacted the Complainant and reported back further:

"I just spoke to the guy (peter) and his issue is not the advertised content, but rather that he got a Please Call Me from someone unknown to him (he called "Susan" and established that he didn't know the person) at a very late hour.

He doesn't want Please Call Me's at all... and I am not sure if there is a function within the operators system so that you can block yourself from receiving Please Call me's...

In my view, Starfish Mobile can not do anything more with this request/complaint."

Decision

The communication received was neither primarily commercial in nature nor was it unsolicited and I can find no breach of version 3.2 of the WASPA Code of Conduct and in particular section 5 thereof which related to the sending of commercial communications. It is clear that the Complaint stems from a misunderstanding of the nature of the SMS received by the Complainant and I do not believe it is necessary to consider the matter further.

The Complaint is accordingly not upheld. The SP is commended for the positive action taken by its CEO to address the Complaint.