



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Grapevine Interactive
Information Provider (IP) (if any)	N/A
Service Type	Unsolicited commercial SMS
Source of Complaints	Public
Complaint Number	#0153

Complaint

The detailed Complaint, received by WASPA on 31 January 2006, reads as follows:

"I receive spam sms's on my cellphone: 0825535377.

I have been in contact with Grapevine, through Vodacom. The spam has increased now if there was any change. The email address given by Grapevine, for complaints about spam, is ineffective. The number of the sms originator varies in the last two digits (here marked XX): 082 000 400 400 XX."

SP Response

The SP provided a comprehensive response on 2 February 2006.

"1) The service being used to target this cell number is the Vodacom Email2SMS service. This service is offered by Vodacom as a "free" service. The service allows anyone to send an email 2 terminate on the designated cellphone. Also, a Vodacom subscriber can send an SMS to an email address, or reply to an email 2 sms received.

2) Grapevine run the service on behalf of Vodacom. Vodacom advertise the service to their subscribers.

3) The service has been running for 3 years. The number of free email 2 sms messages that are allowed from an email address per day has been reduced from 25 to 3 over the last few years. This was to avoid spammers using the system to target cell numbers. Our software also has techniques to recognize when a spammer is generating multiple email addresses to send out the same message to large bases.

4) We have a blacklist system in place and if anyone complains about receiving from this service we will blacklist their cell number from ever receiving messages through the service again.

5) This customer has been spammed through this system. We have blacklisted his number and this has been communicated to him. We are also trying to understand why his complaints last year were not received by our Grapevine customer care service that would have enabled his number to be blacklisted.

6) I have shown the Grapevine Operations feedback below and attached is the log showing the spam messages that were sent to the cell number.

7) Unfortunately we cannot track the sender of the email because the addresses are spoofed and don't exist anymore.

8) Lastly this system is mostly used responsibly by Vodacom customers to send information from mother to child, employer to employee, doctor to patient, etc and the total messages per month range between 800k - 1m. Unfortunately the spammers will try and abuse the service which has happened in this case.”

The Response further provided correspondence between the SP and the Complainant which reveals the steps taken by the SP to resolve the matter to the Complainant's satisfaction.

Sections of the Code considered

The following sections of version 3.2 of the WASPA Code of Conduct were considered:

5.3. Prevention of spam

5.3.1. Members will not send or promote the sending of spam and will take reasonable measures to ensure that their facilities are not used by others for this purpose.

5.3.2. Members will provide a mechanism for dealing expeditiously with complaints about spam originating from their networks.

Decision

The SP's Response is comprehensive and satisfactory. In the light of the clear steps taken by the SP to deal with spam sent via its Email2SMS service I am unable to find that it has not taken reasonable measures to ensure its facilities are not used by others for the sending of spam.

The corrective action taken by the SP vis-à-vis the Complainant is noted.

There has, however, clearly been a failure of the part of the SP's customer service and the Complainant's initial complaint directly to the SP was not dealt with expeditiously. This is a breach of section 5.3.2 of the Code.

In considering an appropriate sanction I have taken into account

- The seriousness with which the SP appears to have dealt with the Complaint as evidenced by the comprehensiveness of its Response;
- The corrective action already taken;
- The reality that customer service cannot reasonably be expected to be flawless at all times.

In the circumstances:

- The Complaint is not upheld insofar as it raises a breach of section 5.3.1. of the Code;
- The Complaint is upheld insofar as it raises a breach of section 5.3.2 of the Code and the SP is issued with a reprimand.