



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Grapevine Interactive
Information Provider (IP) (if any)	Grand Bond Specialists
Service Type	Commercial SMS
Source of Complaints	Public
Complaint Number	#1119
Date received	5 March 2007
Code of Conduct version	4.8

Complaint

The Complainant, a member of the WASPA Secretariat acting in his personal capacity, raised a breach of sections 5.1.2, 5.1.3 and 5.3.1 of version 4.8 of the WASPA Code of Conduct after receiving an unsolicited commercial SMS.

SP Response

It is evident that the SP gave its full co-operation in the investigation and resolution of this matter. The investigation revealed that the IP in this matter was a rogue that was using an automatic mobile number generator to arrive at numbers to send its commercial messages to. Access to the SP's network was not specifically authorised.

The SP took prompt corrective action.

Sections of the Code considered

5.1.2. Any message originator must have a facility to allow the recipient to remove his or herself from the message originator's database, so as not to receive any further messages from that message originator.

5.1.3. Where feasible, persons receiving commercial messages should be able to remove themselves from the database of a message originator using no more than two words, one of which must be 'STOP'.

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.

13.5. Information provider notices

13.5.1. If the adjudicator has determined that an information provider is operating in breach of the Code of Conduct, and the adjudicator is of the reasonable opinion that the information provider may persist in such breach, whether through the member against whom the complaint was lodged or another member, the adjudicator may instruct the secretariat to issue a notice to WASPA's members.

13.5.2. The notice referred to in 13.5.1 must clearly identify the information provider and the relevant breach or breaches of the Code of Conduct, and must specify a date from which the notice applies.

13.5.3. Any member permitting the information provider to operate in breach of the Code of Conduct (in the same or substantially similar manner to that identified in the notice referred to in 13.5.1), after the date specified in the notice, will be automatically in breach of the same part or parts of the Code of Conduct as the information provider. Such members will be subject to sanctions determined by the adjudicator in accordance with section 13.4, read in conjunction with section 13.3.11.

Decision

The Adjudicator commends the SP on the measures it has taken to resolve this matter. It is clear to the Adjudicator that the SP cannot be said in this matter not to have taken reasonable measures to ensure that its facilities are not used by others

for the purpose of sending spam (nor is there any indication in the Complaint that it sent spam or promoted the sending of spam).

In the circumstances no breach on the part of the SP is found to have occurred. The problematic conduct stems from the IP, which is in breach of the Code, and the Adjudicator's only substantive remedy, given the reasonable belief that the IP will continue to act in breach of the Code, is to request that the WASPA Secretariat issue out a notice in terms of section 13.5 of the WASPA Code of Conduct.

Accordingly the following order is made:

- The Complaint is not upheld as against the SP
- The Secretariat is requested to issue an Information Provider Notice in terms of section 13.5 of version 4.8 of the WASPA Code of Conduct. A draft of such Notice is annexed to this Report marked "A".

INFORMATION PROVIDER NOTICE ISSUED OUT IN TERMS OF SECTION 13.5 OF VERSION 4.8 OF THE WASPA CODE OF CONDUCT

All members of WASPA are required to take notice that:

Name of IP: Grand Bond Specialists

Available identifying information:

GRAND BOND

<http://www.grandbond.co.za/>

Tel: 011 425 6382

Private Bag X043

Suite 300

Benoni

1500

info@grandbond.co.za

was found to have breached sections 5.1.2 and 5.1.3 read with section 5.2.1 of Version 4.8 of the WASPA Code of Conduct under Complaint #1119.

Details of the breach: The IP uses a program that automatically generates numbers which are used for sending out unsolicited commercial communications. The IP also sends unsolicited commercial communications to people whose names have been given as references by “friends”.

Date of application of this Notice: [to be set by the Secretariat]

IMPORTANT

All WASPA members are required to note that, in terms of section 13.5.3. of Version 4.8 of the WASPA Code of Conduct, any member permitting the IP specified above to operate in breach of the Code of Conduct (in the same or substantially similar manner to that specified above), after the date specified in the notice, will be automatically in breach of the same part or parts of the Code of Conduct as the information provider. Such members will be subject to sanctions determined by the adjudicator in accordance with section 13.4, read in conjunction with section 13.3.11.