

WASPA Member (SP)	Cointel
Information Provider (IP)	N/A
Service Type	Subscription Irregularities
Source of Complaint	Hester Susanna Kruger
Complaint Number	#3054
Code of Conduct Version	5.3
Date of Adjudication	18/02/2008

Complaint

The Complainant lodged the following complaint:

“Since September 2007, I am being charge by Cointel for services from them. I've never asked or applied for any services from them. I've e-mailed and phoned them numerous times, trying to find out why are they charging me and to please take me from their list. Till date NO response what so ever from their side and every month they charge me time and time again for things I do not know what for. I DO NOT make use of ANY download things or competition numbers at all, as this is my business phone. Please help me, as they do not want to respond to ANY of my CALLS nor e-mails. I feel that they are stealing from me, as they are not able to tell me to what I've been subscribed too and after I asked them numerous times to take me off their list and they promised that they've done so, they are still charging me. I will not pay for something that I am not using.”

SP Response

Various responses were received from the SP after enquiries requesting further information were issued by the Adjudicator. These responses varied and lacked consistency and clarity. A later response by Scorene, did however indicate that the Complainant subscribed to its services. No proof of these records was however provided.

Sections of the Code considered

The following sections of version 5.3 of the Code of Conduct were considered:

4.1.6. Customer support must be easily available, and must not be limited to a medium that the customer is unlikely to have access to (for example, support should not be limited to email if a significant number of customers do not have access to email).

11.1.4. Customers may not be automatically subscribed to a subscription service as a result of a request for any non-subscription content or service.

11.1.5. Subscription services with different billing frequencies should not have a subscription mechanism likely to cause a customer to accidentally subscribe to a more frequent service.

11.1.7. Once a customer has subscribed to a subscription service, a notification message must be sent to the customer 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) 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 content 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.

11.2. Termination of a service

11.2.1. Instructions on terminating a subscription service must be clear, easy to understand, and readily available.

11.2.2. All subscription services must have a readily available unsubscribe facility which costs no more than one rand.

11.2.3. Customers must be able to unsubscribe from any subscription service via SMS using no more than two words, one of which must be 'STOP'.

11.2.4. Members must ensure that the termination mechanism is functional and accessible 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 Adjudicator regrets to inform that the information provided by the SP lacks clarity and proves to be of an insufficient nature. The statements from the Complainant and the SP further seem to contradict one another. In evaluating the matter, the Adjudicator does however feel that the SP had more than ample time to provide a response that was chronologically sounder and the Adjudicator is of the assumption that the SP could have provided a response containing more effective proof of what it alleged in its response. The SP was given a further opportunity by the Adjudicator to provide fuller details and although such response was received, it still remained vague and unclear. Based on this assumption, a decision had to be made.

The Adjudicator is of the opinion that even if the Complainant did subscribe to any of the services that were offered by the SP, the persistent failure by the SP to deal with the various calls and emails submitted by the Complainant requesting discontinuing of the services, indicates a definite breach of section 4.1.6 as well as section 11.2.4 of the Code. Although the services were eventually cancelled after an informal complaint was lodged through WASPA, the Complainant felt that she was wrongfully charged for services she did not request. In this instance, the Adjudicator feels that although the SP did not provide clear evidence of further services there does seem to be an indication that the Complainant did register. Once again however, it proved difficult for the Complainant to unsubscribe and billing continued. It would seem that there was no consistent adherence to the various sections of the Code outlined above and the Adjudicator has no alternative, in the absence of clear and chronologically sound evidence on behalf of the SP, to decide in favour of the Complainant. The complaint is therefore upheld.

In determining an appropriate sanction, the following factors were considered:

- The prior record of the SP with regard to breaches of sections 4.1.6 and 11.2.4 of the WASPA Code of Conduct; and
- The SP's follow-up after the informal complaint was lodged;

The SP is fined the sum of R2 500, 00 payable to the WASPA Secretariat within five (5) days of notification hereof.

The SP is further ordered to reimburse the Complainant for the months of October, November and December 2007 for any deductions that were made. This should also be done within five (5) days of notification hereof.
