



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	UME / Smartcall Technology Solutions
Information Provider (IP):	Not applicable
Service Type:	Adult/subscription service
Complainant:	Member of the public
Complaint Number:	10029
Code Version:	9.0
Advertising Rules Version:	2.3

Complaint

The complainant is a Vodacom subscriber and has three phones with Vodacom. The complainant discovered and became concerned with his child's access to certain adult services using one of his phones as well as certain deductions that were being made from his account. To make matters worse, the complainant feels that Vodacom has been somewhat dismissive of his concerns and "refuses to take any responsibility as regards these charges". The complainant has lodged three complaints in respect of two of his three phones and it is convenient to deal with each complaint on a similar basis in this report.

Complaint 1 – Phone 1

The essence of this complaint is that the complainant's 12 year old son subscribed to an adult subscription service without the complainant's knowledge or consent. To make matters worse, Vodacom failed to terminate the subscription for roughly four days after the complaint was brought to Vodacom's attention.

The complainant added that –

- This phone is not supposed to be capable of accessing adult services (the complainant referred to the phone as being “blocked against adult content with Vodacom”);
- The complainant attempted to dial the number contained in an sms, presumably received in connection with the subscription service with no success;
- He was charged R40 for the subscription and this included charges for the period after he reported the issue to Vodacom;
- The complainant has not been given an indication of how the service was accessed in the first place;
- The complainant did not receive further sms’s relating to the service despite Vodacom’s assurance that this was done;
- The complainant took steps to opt out of subscription services with this line and yet Vodacom permitted the subscription.

Complaint 2 – Phone 1

The complainant indicated that Phone 1 was used to subscribe to a further subscription service involving another WASPA member, Mira Networks. This service was subsequently determined to be “illegal” and while the complainant was able to have the subscription fees charged to Phone 1 refunded, Vodacom also charged him an amount of R294 for data charges relating to the subscription service despite its apparent illicit nature and the relevant data bundle being exceeded without any warnings being sent to the complainant.

The complainant’s view is that “Vodacom should refund this because of the illegal content”.

Complaint 3 – Phone 2

This complaint seems to relate to a subscription service through iTouch at a rate of R6 per day. An attempt to stop the subscription was apparently made using a “STOP” message but the service continued to operate after this was done. The complainant seems to contend that R180 was deducted as a result of a single sms (it

is not clear whether this was a single charge or the cumulative charges incurred through this subscription service).

This phone uses a pre-paid account and the complainant was apparently offered a refund in the form of pre-paid vouchers, which he refused and insisted on a refund in the amount of R434 to his account.

General

The complainant made a number of further general comments and the following are particularly relevant:

11) The one-click being taken as the bible as far as starting a dubious subscription seems even more interesting in view of the fact that Vodacom refused to provide:

a) details of the prepaid account to the user of the phone [Phone 2] without me as the account holder verifying that they may b) the supplying of an itemised bill requires my verification by providing a copy of my id.

Also if I purchase something on the internet, which is comparable, I have to use a credit card and provide all sorts of verification data.

Even though my computer also has a unique ID on the internet.

12) In light of the one-click subscribing being easily used as a mistake, Vodacom has to provide me with a mechanism to stop these services.

13) In normal consumer contracts, there is identification when signing and entering into a contract, and a minor can certainly not enter into any contract on his own There is also a cooling off period. None of these seem to be used here and this can thus be classified as a harmful business practice.

The complainant is claiming the following relief:

My claim against Vodacom is as follows:

Monetary:

1) Data usage to download content R294

2) *Subscription services R40*

3) *Subscription services R 434*

4) *Time wasted 30 hours@R200 as well as mental anguish at the treatment meted out by Vodacom\'s representatives: R6000*

Future:

Vodacom has to ensure that I will never be charged for any subscription service without providing proof of id.

Service provider's response

The SP responded on 20 July 2010 as follows:

We have contacted this customer to offer a full refund (R25 total). The customer was extremely rude to our service team, and insisted that R80 was charged. We double checked and confirmed only R25 was deducted for services used. The customer hung up the phone, before we attempted to re-contact them to process the R25 full refund. The customer will sadly not answer and insists that he is reporting back to WASPA. In addition, he is upset that his son has been supplied with pornography, although we think there may be a mix-up with another WASP, as UME have only charged R25 (not R80) and we do not offer pornographic services (glamour at most). Thanks for your time, Richard at UME.

The SP, UME, submitted detailed submissions in a separate letter, a copy of which (with personal information redacted) is annexed to this report. I have also annexed correspondence between the complainant, UME and Vodacom.

One of the key issues here is that the complainant has directed much of his overall complaint at Vodacom and has demanded that Vodacom take responsibility for the events, which gave rise to the complaint. While Vodacom may have played a role in this matter (and, to the extent it did, that role is unclear), this complaint has been made against UME and Smartcall Technology Solutions.

I noticed that UME had not supplied detailed logs and requested them from UME. I received the response annexed to this report. The complainant's personal information has been redacted from the document.

Sections of the Code considered

I found the following provisions of the Code to be applicable to this matter and the highlighted portions particularly useful:

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2.1. An "adult service" is any service where the content or product is of a clearly sexual nature, or any service for which the associated promotional material is of a clearly sexual nature, or indicates directly, or implies that the service is of a sexual nature.

2.2. An "adult content service" is any service for the provision of content which has been classified as suitable only for persons 18 years or older by an appropriate body (such as the Film and Publications Board), or content reasonably likely to be so classified.

4.1.1. Members must have honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.

4.1.2. Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

8.1.1. Any adult service must be clearly indicated as such in any promotional material and advertisements.

8.1.2. Promotions for adult services must be in context with the publication or other media in which they appear. Services should be in context with the advertising material promoting them. The content of a service should not be contrary to the reasonable expectation of those responding to the promotion.

8.1.3. Members must take reasonable steps to ensure that only persons of 18 years of age or older have access to adult content services. Explicit confirmation of a user's age must be obtained prior to the delivery of an adult content service.

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8.2.3. Adult services may not be marketed via direct communications with a customer of non-adult services, unless that customer has explicitly given permission for such marketing to take place and the customer has confirmed that they are, in fact, an adult.

11.1.1. Promotional material for all subscription services must prominently and explicitly identify the services as "subscription services". This includes any promotional material where a subscription is required to obtain any portion of a service, facility, or information promoted in that material.

11.1.6. Where possible, billing for a subscription service must indicate that the service purchased is a subscription service.

11.2.2. Any request from a customer to join a subscription service must be an independent transaction, with the specific intention of subscribing to a service. A request from a subscriber to join a subscription service may not be a request for a specific content item and may not be an entry into a competition or quiz.

11.2.3. Members must ensure that children accessing subscription services confirm that they have permission from a parent or guardian do to so.

11.4.1. 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 SP's telephone number.

11.2.5. Where a subscription service is initiated by a user replying to a message from a SP where that message contains instructions for activating a service and/or where that message contains an activation code that when inputted by the user activates a subscription service, then that message, along with the subscription initiation instructions

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and/or activation code, must also include the subscription service information in the following format, flow and wording:

[service activation instructions and/or activation code]. You'll be subscribed to [XYZ service] from [name of SP] at [cost of service and frequency of billing].

11.1.11. If a subscription service can be initiated by entering a customer's mobile number on a web page or WAP site, then a separate confirmation must be obtained from that customer's mobile handset before any billing may take place for that service.

11.2.4. If a subscription service is initiated by entering a customer's mobile number on a web page or WAP site, then a separate confirmation message must be sent to the customer's mobile handset in order to prove that the number entered matches the customer's mobile handset number. This message may either:

(a) contain a PIN number which is then confirmed or validated on the web page,
or

(b) contain a URL with a unique identifier, which, when clicked, validates the handset number.

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

11.8.2. Customers must be able to unsubscribe from any subscription service via SMS using no more than two words, one of which must be 'STOP'. If a reply could pertain to multiple services, either all services should be terminated, or the recipient should be given a choice of service to terminate.

Sections of the Advertising Rules considered [if applicable]

Not considered.

Decision

It is common cause that the complainant's mobile phones were used to access services, which the complainant, in retrospect, would not have authorised. It is not clear precisely how the services in question were accessed and subscribed to. The two complaints which the complainant has referred to WASPA are somewhat confused insofar as the complainant holds Vodacom responsible whereas the complaints themselves were formally directed at UME/Smartcall Technology Services.

I am unable to deal with the complainant's complaints against Vodacom in the circumstances and must focus my attention on the complaints applicable to the named parties.

I understand the complainant's concerns that his son was able to access adult services, the content available through those services and incur charges without his express consent and where, as he put it, the phone in question was "blocked against adult content with Vodacom". At the same time there is no indication that the SP acted improperly in subscribing the complainant's phone to its service. The SP has indicated that a prospective subscriber is required to opt-in twice when subscribing to its service through a WAP site. The SP further appears to have complied with the Code's formatting requirements for welcome messages and unsubscribed the phone when an appropriate unsubscription message was sent. The SP has also offered to refund the complainant the charges incurred and the complainant has refused such a refund unless it is on his terms.

While the complainant has asserted that his son has denied subscribing to the service, there is no indication that the phone was subscribed to the service unilaterally.

The complainant may well have valid complaints against Vodacom if it has enabled the complainant's son to access adult services where such access should, on some or other technical basis, have been blocked. Vodacom may even have acted improperly if the complainant's allegations are accurate but this is not a matter before me for consideration.

Sanctions

While I do not find that the SP has materially breached the Code's provisions, it has offered a refund to the complainant. The complainant has not accepted the refund as far as I am aware and it remains for him to do so should the offer remain open.

Given that I find no basis to conclude that the SP has breached the Code's provisions on the basis the complainant has alleged (after a fashion), or at all, I dismiss this complaint.

26/11/2010

Complaint #10029. Escalation of unsubscribe request #219901.

Dear WASPA adjudicator.

Many thanks for your request regarding additional information surrounding complaint #10029. I have gladly compiled additional logs below. I apologise that this information was not included in my initial response.

Please see below a screenshot of Mr. [REDACTED] club activity for "SA Adult Portal". This has been taken as a screenshot through our Falcon customer support page via my laptop this morning. Each section is explained below:

The screenshot shows a web browser window with the URL http://system.dwap.org/support/misidn_complete.php?form_source=old. The page content includes a summary table at the top, followed by a detailed SMS message history table, and a WAP opt-in information table at the bottom.

Opt-in Date	Last BCST Date	Stop Date	Club ID	Billing Gateway	Info	Credits	Status	Tools
(old) 17-Jun-2010 Thu 22:57	21-Jun-2010 Mon 05:54	22-Jul-2010 Thu 16:27	398	GW:286 AppId:40841	carl-2010-07-22 16:27:25	0	Blocked	[STOP] [BLOCK]

Date	Gateway	MSISDN	Network	Country	Type	SMS Message	Status
22-Jun-2010 Tue 11:18	GW:286 AppId:40841 SC:40841	[REDACTED]	Vodacom	South Africa	Free Text	FREE SMS: You have been unsubscribed from SA Adult Portal, come back and see us again soon!!	DELIVERED
21-Jun-2010 Mon 15:44	GW:286 AppId:40841 SC:40841	[REDACTED]	Vodacom	South Africa	Free Text	FREE SMS: You have been unsubscribed from SA Adult Portal, come back and see us again soon!!	DELIVERED
20-Jun-2010 Sun 13:26	GW:286 AppId:40841 SC:40841	[REDACTED]	Vodacom	South Africa	Cost:5C Text	Thanks 4 ur purchase! You have been debited R5. For help call 0115074630. sms STOP to 40841 to stop. UME.	DELIVERED
19-Jun-2010 Sat 13:08	GW:294 AppId:42364 SC:42364	[REDACTED]	Vodacom	South Africa	Free WAP Push	Vid msg sent from Amy89! http://da5.in/25y23yq0r143zzy4qzstex14zty.wml	DELIVERED
19-Jun-2010 Sat 11:18	GW:286 AppId:40841 SC:40841	[REDACTED]	Vodacom	South Africa	Cost:5C Text	Thanks 4 ur purchase! You have been debited R5. For help call 0115074630. sms STOP to 40841 to stop. UME.	DELIVERED
18-Jun-2010 Fri 11:25	GW:286 AppId:40841 SC:40841	[REDACTED]	Vodacom	South Africa	Cost:5C Text	Thanks 4 ur purchase! You have been debited R5. For help call 0115074630. sms STOP to 40841 to stop. UME.	DELIVERED
17-Jun-2010 Thu 22:58	GW:286 AppId:40841 SC:40841	[REDACTED]	Vodacom	South Africa	Free Text	Welcome to SA Adult! Click the link to follow! info@smartcalltech.co.za or Call:0115074630. sms STOP to 40841 to stop. Subscription service R5/day. UME. 18-	DELIVERED

Date	MSISDN	Network	Country	Gateway	MO SMS
There are no MO SMS for this MSISDN!					

Date	MSISDN	Type	Menu/Prd. No:	Download(s)	Handset Details
17-Jun-2010 Thu 22:57	[REDACTED]	WAP Menu	S27	1	IP:196.207.40.231 Mozilla/4.0 SonyEricssonW595v/R3EE Browser/NetFront/3.4 Profile/MIDP-2.1 Configuration/CLDC-1.1 JavaPlatform/JP-8.3.3 UP.Link/6.5.0.0.0
17-Jun-2010 Thu 22:57	[REDACTED]	WAP Menu	S27	1	IP:196.207.40.231 Mozilla/4.0 SonyEricssonW595v/R3EE Browser/NetFront/3.4 Profile/MIDP-2.1 Configuration/CLDC-1.1 JavaPlatform/JP-8.3.3 UP.Link/6.5.0.0.0

Date	Product	Type	Session ID
17-Jun-2010 Thu 22:57	Download of the week - (S27)	Wallpaper	3033961
17-Jun-2010 Thu 22:57	Download of the week - (S27)	Wallpaper	3033963

Box 1 – The grey box at the top of the page displays the club ID (398 – Adult portal) and includes the opt-in date and stop date. You will also see the billing gateway through which the billing was performed.

The green highlighted section in the middle shows all successfully delivered messages sent to the customers MSISDN (including FREE and Billed). Please excuse cost labelled '5C'... this actually means R5 but we haven't changed the currency symbol since we also sell our services in Europe.

You will notice the welcome sms was sent (free) on 17th June (date of opt-in) as well as daily billing notifications for the subscription. Please notice the STOP sms (also free) was sent on the 21st June and also again upon request from the customer on Jun 22nd. Please note: no reminder sms was sent as the member was only subscribed for a total of 4 days, and did not reach the 28 day reminder stage of their subscription.

At the bottom of the page you will see the WAP opt-in information for the subscription. 2 opt-ins are shown when the customer 1) clicks on a WAP banner/advertisement and then again 2) when they

click “confirm” to initiate their subscription on our confirmation page (where full costs, frequency, stop information, customer service information, 18+ age requirement and other info required by WASPA is displayed). If required, a test URL or screenshot for this service can be supplied, but due to the change in regulations (double opt-in) in August 2010, a test URL would include a different process and layout to what Mr. [REDACTED] would have experienced and seen when subscribing to “Adult Portal”.

Lastly, you will see 2x download requests for 2 of our “Downloads of the week”. Our system is configured so that we do not bill for additional downloads (made on top of the users 1x daily download inclusive as part of their subscription) until at least 2 hours after the user has received a welcome sms. This allows time for the customer to receive their welcome sms and gives the user sufficient time to unsubscribe before billing in the event that they have changed their mind or are not happy with the conditions set-out on the WAP confirmation page (and main site) and again re-emphasised in the club welcome sms.

Please note: Additional downloads are billed for in a different manner (via OBS – Online billing solution). OBS billing attempts do not display on our MT message logs (Falcon customer support) but you will see the 2x OBS billing requests made on our behalf by SmartCall Technology on June 18th in my original escalation response (time stamps: June 18th 2010 02:12:19 and 04:33:31).

If you have any further questions or require additional information, please do not hesitate to contact me. All messages and activity displayed in the logs above can be verified by Mr. [REDACTED] network provider and will match precisely.

Kind regards,
Richard Keeley

From: [REDACTED]
Subject: Re: [WASPA.complaints] Resolution of complaint Ref:# 10029
Date: 23 July 2010 3:06:45 PM SAST
To: complaints@waspa.org.za
Reply-To: "complaints@waspa.org.za" <complaints@waspa.org.za>

Dear WASPA,

As regards to this matter:

I can declare the following under oath:

- 1) I was contacted by Alicia, who only offered me R15 and indicated that she was not in a position to refund the full amount. I told her that she has insulted me and I was very upset and put the phone down.
- 2) She contacted me again and then offered me R25 which she insisted was the full amount. When i pointed out to her that she is wasting my time since Vodacom insisted it was R40(I did not know the exact amount then) we agreed that she will send me the logs. I gave her my email address and she wrote it down) Since then nothing has arrived other than an SMS that asked me to contact her. If people expectr me to phone them at my expense to fix their problems, so be it. And yes I was rude to her over the phone because I was very upset about the fact that they even tried to do me in as far as a refund is concerned.
- 3) I phoned the number on the unsubscribe request on Friday the 18th, but the phone just rang. I then wrote to Vodacom insisting that the matter is urgent and I had to be unsubscribed immediately. I also repeatedly indicated to Vodacom that the subscription is still running and that the phone is mostly used by a 12 year old child and that the phone was locked against adult content. I was even phoned on the Saturday by the Vodacom customer care and I repeated that the phone is still subscribed. It was only on the Monday that we received an unsubscribe message.
- 4) My boy has been warned repeatedly about subscription services and he swears that he did not subscribe to the service. The only thing that he can think of was that he fell asleep on his phone and when he woke up he was somewhere in Vodafone live.
- 5) I agree that I did not send a stop request but tried to phone(no answer) and immediately instructed Vodacom to stop this service.
- 6) As backup I include some of the correspondence from Vodacom. I already send you this with my previous insistence that these people knowingly made adult material available to a child of at that time 12 years old. As I stated previously this continued for four days and they had the gall to first charge me and second try and lie their way out of this.
- 7) As I said before, the principal of this matter is that they should be suspended for knowingly making adult material available to a child and then charging the parent for so called subscription services.

I am looking forward to the adjudication. Below please find some of the correspondence to Vodacom.

Once again, you have only succeeded in wasting more of my time with these ridiculous subscription services. As can be seen as regards to all this correspondance, I must have wasted 15 hours on it and nearly had a heart attack when I was insulted by Alicia. What price is this?

Regards
[REDACTED]

Dear Mr [REDACTED]

Kindly be advised that we liaised with Smartcall Technology on 011 507 4630 and we were informed that the number 082 [REDACTED] subscribed to online content on 18/06/2010 at 12:09am until 25/06/2010. Charges incurred R40.00. Regrettably they will not offer a refund as it was a valid subscription. They did inform us that they send a link and the user then needs to log onto the internet to download the content they requested.

In the interim the number 082 [REDACTED] has been unsubscribed. Please note that Vodacom cannot take responsibility in the manner the user manages the account. This type of service was initiated from the handset.

We will also suggest that you view the itemised bill as sms were sent for subscription services as well. To provide you with the itemised bill please forward us a signed written request and a copy of your ID. You may attach it to the email or fax it to 021 400 0927 for urgent processing.

Please note that we also logged your request to WASPA for further investigation. Reference number: 219901.

Regards

Rochell McPherson
Senior consultant
Email contact centre

On 10/06/18 8:03 PM, [REDACTED] wrote:

Dear whoever,

Once again you roll out the stock reply. You facilitate the distribution of porn and then you hide behind WASPA, which in any case is Vodacom again with other partners.

You have broken the law by tempting a 12 year old boy to download pornographic material.

As you are aware I have instructed you not to allow any subscription services on the phones I have on contract with you.

You and your partner have broken the law this time. And all you care to do is roll out your stock answer.

You are very aware that this phone is being used by a 12 year old boy and you have done nothing to fix the situation.

I have in fact gone to the police today and laid a charge against you and your service partner and I am apparently meeting a prosecutor.

Your letter give me great delight because it proves that you reckon that you are above the law.

By the way the adult services are still not unsubscribed at this moment. The longer you take the stronger my case.

What a shocking performance from a major company in South Africa.

Regards
[REDACTED]

Good evening

On Fri, 18 Jun 2010 14:47:55 +0200, <customercare@vodacom.co.za> wrote:

> Dear [REDACTED]
>
> Please be advised that our records reflect that there is subscription
> for services from Smartcall Technologies. We have requested that they
> unsubscribe this number and confirm once it has been unsubscribed.
>
> WASPs are third parties developing and offering services using the
> Vodacom network. Vodacom does not take any responsibility for any
> billing on a subscriber's account by a WASP. They make use of Vodacom's
> cellular network infrastructure and billing relationship with the
> subscriber to deliver and bill for these services, such as SMS voting,
> Traffic reports, Games, Competition lines, banking transaction charges
> etc.
>
> Regards
>
> Samantha Petersen
>
>
> On 10/06/18 10:57 AM, [REDACTED] wrote:
>
> Dear Sirs,
>
> This cellphone belongs to my child of 132 years old. We received a
> message

> yesterday on it, but I only saw it today. The message is as follows:
>
> Welcome to SA Adult! Click the link to follow! info@smartcalltech.co.za
> or
> Call:0115074630.sms STOP to 40841 to stop. Subscription service R5/day.
> UME. 18+
>
> Now you are all aware of my fight with you about subscription services.
>
> I would like you to STOP this immediately and no deductions must be paid.
>
> The reasons are:
> 1) I requested and you agreed that no subscription services will be
> deducted from my phones.
> 2) to sell porn to a 12 year old boy is illegal. i have blocked adult
> content on this phone
> 3) There was nothing that instituted this transaction.
>
>
> Now please do not refer me to the WASPA, you are ultimately responsible
> for this, because you allow rubbish like this to happen, because you
> facilitate the deductions and you share in the profits.
>
> I would also like to know how and where a 12 year old subscribed to this
> porn service. i believe that it would make a compelling court case. In
> fact I am now going to report you to the police for this.
>
>
> Regards
> [REDACTED]

On Fri, 23 Jul 2010 14:27:06 +0200, WASPA Complaints (Lorraine Hartzler) <complaints@waspa.org.za> wrote:

> Dear [REDACTED]
>
> Regarding your complaint against UME,
> we have received the following correspondence from the service
> provider:
>
> [see below email and attached response]
>
> We would like to check that the service provider has resolved
> this complaint to your satisfaction. If so, we will close the
> complaint and notify the service provider that we have done so
>
> If you have any questions regarding the Code of Conduct or the
> complaints procedure, please address your queries to
> <complaints@waspa.org.za>.
>
> Warm regards,
> WASPA Secretariat
>
> ----- Original Message -----
> Subject: Re: [WASPA.complaints] [formal] Complaint Ref:#10029
> Escalation of unsubscribe #219901
> Date: Fri, 23 Jul 2010 13:00:14 +0100
> From: Richard Keeley <richard@umelimited.com>
> Reply-To: richard@umelimited.com, "complaints@waspa.org.za"
> <complaints@waspa.org.za>
> To: Richard Keeley <richard@umelimited.com>, <alex@umelimited.com>,
> WASPA Complaints (Lorraine Hartzler) <complaints@waspa.org.za>
> CC: archive@waspa.org.za <archive@waspa.org.za>
>
>
>

> Dear WASPA.
>
> We have safely received complaint #10029, escalation of unsubscribe
> #219901. I provide our response regarding the complaint in detail
> (document attached).
>
> Hopefully WASPA will see from our immediate and detailed response that
> all possible efforts have been made to resolve this situation, both
> before and after WASPA complaint escalation.
>
> I thank you for your time and will be on hand to provide any further
> information if required.
>
> Please confirm safe receipt of our documentation.
>
> Kind regards,
>
> Richard Keeley
> universal mobile entertainment ltd.
>
> mob: +44(0)7765402393
> office: +44 (0)1189596047
> fax: +44 (0)1189596047
>
>
>
>

--
Regards



23/07/2010

Complaint #10029. Escalation of unsubscribe request #219901.

Dear WASPA.

We have safely received complaint #10029, escalation of unsubscribe #219901. I provide our response regarding the complaint in detail below.

Mr. [REDACTED] requested that their service was terminated, and the customer was unsubscribed within 24 hours of making a STOP request. As standard procedure, we immediately unsubscribe all STOP requests made via MO sms, customer service department, or from the WASPA unsubscribe facility, in bulk, within 24 hours. At no point was a STOP MO received from this customer, however the STOP was dealt with immediately upon receiving the request. Mr. [REDACTED] was a member of "SA Adult Portal" from opt-in date 17-Jun-2010 until he was manually stopped by UME on 21-Jun-2010 (total subscription 4 days). By the time the unsubscribe request was received by UME via the WASPA unsubscribe facility (Smartcall Technology Solutions 2010-07-02 14:43:46 handover UME) the customers MSISDN had already been manually terminated due to a previous request. In addition Mr. [REDACTED] was sent the relevant STOP confirmation on the same day as UME receiving the request (June 21st 2010). I have included a screenshot below taken from our system, confirming this.

MT history for MSISDN: +27824577698							
Date	Gateway	MSISDN	Network	Country	Type	SMS Message	Status
22-Jun-2010 Tue 11:18	GW:286 AppID:40841 SC:40841	[REDACTED]	Vodacom	South Africa	Free Text	FREE SMS: You have been unsubscribed from SA Adult Portal, come back and see us again soon!!	DELIVERED
21-Jun-2010 Mon 15:44	GW:286 AppID:40841 SC:40841	[REDACTED]	Vodacom	South Africa	Free Text	FREE SMS: You have been unsubscribed from SA Adult Portal, come back and see us again soon!!	DELIVERED

We added Mr. [REDACTED] to our refund list. All refund requests made by customers will naturally be granted in order to maintain a good relationship with our customers and providers. This is why we marked "Full Refund Offered", as we do with all WASPA refund requests via the WASPA unsubscribe facility. We do not intend on lying or issuing only "partial refunds" when we have promised a full refund. We try and process all refunds within 7-10 days of receiving such requests (occasionally the process may take longer depending on volumes).

Our customer service representative (Alicia) contacted Mr. [REDACTED] to offer a full refund of R25. The customer claimed that the charges had been nearer R80 (perhaps confusion with another WASP). Alicia offered logs to Mr. [REDACTED] who was extremely rude and hung up the phone as he was angry that a higher refund could not be offered. Below I include a screenshot of our aggregator STS's logs proving only R25 was charged to the customer.

Location	clientname	servicename	requestid	requestdate	msisdn	externaldescription	requestamount	NetworkErrorDescription	externaltransactionid
APPL1 OBArchive03	UME Ltd	UME.5	184127999	2010/06/20 04:54:43 PM	[REDACTED]	SMS UME Ltd. Subscription	5.00	Accounting completed successfully	91937114
APPL1 OBArchive03	UME Ltd	UME.5	183600232	2010/06/19 03:41:40 PM	[REDACTED]	SMS UME Ltd. Subscription	5.00	Accounting completed successfully	96167056
APPL1 OBArchive03	UME Ltd	UME.5	183067685	2010/06/18 04:33:31 PM	[REDACTED]	SMS UME Ltd. Subscription	5.00	Accounting completed successfully	12880482
APPL1 OBArchive03	UME Ltd	UME.5	183008560	2010/06/18 02:12:19 PM	[REDACTED]	SMS UME Ltd. Subscription	5.00	Accounting completed successfully	51324231
APPL1 OBArchive03	UME Ltd	UME.5	182584988	2010/06/18 12:19:59 AM	[REDACTED]	SMS UME Ltd. Subscription	5.00	Accounting completed successfully	13013333

Alicia contacted me immediately regarding the altercation that took place over the phone with Mr. [REDACTED]. Please see a copy of Alicia's e-mail below, sent Tuesday July 20th 2010 at 09:32:

Subject: [REDACTED]

"this guy is very very very very rude. Says we billed him over R80. he is now going to WASPA, only he would know what for. He was screaming at me, he put the phone down in my ear , i phoned back the first time, not the second time. What should i do here?"

To this I responded promptly and recommended that she call him back later once he had calmed down. At the same time, I contacted Charles at the WASPA customer complaints department, who mentioned that the customer had already been in touch, and was making a formal complaint regarding the adult content against another WASP (not UME). Charles offered to re-open the original WASPA unsubscribe request so that I could add the additional note below:

UME on 2010-07-20 14:18:20 said:

We have contacted this customer to offer a full refund (R25 total). The customer was extremely rude to our service team, and insisted that R80 was charged. We double checked and confirmed only R25 was deducted for services used. The customer hung up the phone, before we attempted to re-contact them to process the R25 full refund. The customer will sadly not answer and insists that he is reporting back to WASPA. In addition, he is upset that his son has been supplied with pornography, although we think there may be a mix-up with another WASP, as UME have only charged R25 (not R80) and we do not offer pornographic services (glamour at most). Thanks for your time, Richard at UME.

Alicia was not able to contact the customer thereafter, who did not answer.

I would now like to address the issues surrounding adult services, along with this customer's issue that such material was made available to a 12 year old. Whilst I recognise that this complaint was primarily targeted at Vodacom, I feel that our position should be made clear should this complaint escalate further:

Firstly, I must state that UME offers no adult content beyond 'glamour' (bikini and topless content) in any of its territories internationally, with the absolute inclusion of South Africa (as per the 1.7 rule that features in the Vodacom content guidelines). Secondly, all adult glamour content sites (from bikini to topless videos, images and animations) feature an 18+ verification on both the subscription confirmation page whilst also notifications in the terms on all glamour portals. Although our content is not officially 18+ Adult content (or classified as 18+ content), this aims to deter and prevent the use of our glamour services by a child (as per WASPA definition 2.6; A "**child**" refers to a natural person under 18 years of age). Our welcome landing page alone explicitly states "You Must be 18+ To Use this Service" at the very top, whilst the terms on our subscription confirmation page also clearly state "Strictly 18+". In addition to this, the "18+" notification is also featured on all WAP push, welcome and promotional marketing sms messages (when necessary).



You must be 18+ to use this service.

I have attached Mr. Nieuwoudt's subscription opt-in to the "SA Adult Portal" below:

WAP Opt-in information for MSISDN: +27824577698					
Date	MSISDN	Type	Menu/Prd. No:	Download(s)	Handset Details
17-Jun-2010 Thu 22:57		WAP Menu	527	1	IP:196.207.40.231 Mozilla/4.0 SonyEricssonW595v/R3EE Browser/NetFront/3.4 Profile/MIDP-2.1 Configuration/CLDC-1.1 JavaPlatform/JP-8.3.3 UP.Link/6.5.0.0.0
17-Jun-2010 Thu 22:57		WAP Menu	527	1	IP:196.207.40.231 Mozilla/4.0 SonyEricssonW595v/R3EE Browser/NetFront/3.4 Profile/MIDP-2.1 Configuration/CLDC-1.1 JavaPlatform/JP-8.3.3 UP.Link/6.5.0.0.0

To conclude, hopefully WASPA will see from our immediate and detailed response that all efforts have been made to resolve this situation, both before and after WASPA complaint escalation. This is through immediately unsubscribing (and blocking) the user whilst sending relevant confirmation to the users handset. WASPA will also notice that the customer was offered a full no-quibble refund as a gesture of goodwill, which was rejected (perhaps due to a misunderstanding of charges). In addition, we hope that it will be noted by WASPA and Vodacom that maximum efforts have been made to ensure only adults may access our glamour content portals.

I thank you for your time and will be on hand to provide any further information if required. Our offer to refund Mr. [REDACTED] in full, also still stands.

Kind regards,

Richard Keeley

Director

Universal Mobile Entertainment