

# THE CODE COMPLIANCE PANEL OF PHONEPAYPLUS TRIBUNAL DECISION

Thursday 4 March 2010  
TRIBUNAL SITTING No. 48/ CASE 7  
CASE REFERENCE: 805601/JI

Associated Individual: Darshan Singh  
Service Provider: Speedreview Limited

## THIS CASE WAS BROUGHT AGAINST AN ASSOCIATED INDIVIDUAL UNDER PARAGRAPH 8.9.4 OF THE CODE

### BACKGROUND

PhonepayPlus had evidence suggesting that Mr Darshan Singh was involved in a number of companies which had been subject to adjudication in relation to a serious breach, or series of breaches, of the PhonepayPlus Code of Practice (11<sup>th</sup> Edition Amended April 2008) ('the Code').

The Tribunal considered a report prepared by the Executive in accordance with paragraph 8.9.4 of the Code and was minded to name Mr Darshan Singh as an associated individual. The Executive notified Mr Darshan Singh of the procedure by way of letter dated 7 January 2010, confirming it was pursuing the naming procedure under the Code of Practice:

- Paragraph 8.9.2f and g - Knowing Involvement in a serious breach. or series of breaches, of the Code

### The Investigation

The Executive has conducted this investigation in accordance with paragraph 8.9.4 of the Code.

The Executive sent a letter to Darshan Singh on 7 January 2010, confirming the pursuance of the naming procedure and enclosing documentation referred to in the letter.

A formal response to the letter was provided by Darshan Singh on 13 January 2010.

Darshan Singh did not exercise his right to make an Informal Representations to the Tribunal.

The Tribunal made a decision on the proposed sanction by the Executive on 4 March 2010.

### SUBMISSIONS AND CONCLUSIONS

#### KNOWING INVOLVEMENT IN A SERIOUS BREACH OR SERIES OF BREACHES (Paragraph 8.9.2f and g)

*"The Tribunal has a range of sanctions which it may apply according to the seriousness with which it regards any breaches. Having taken all relevant circumstances into account, PhonepayPlus may singularly or in any combination in relation to each breach:*

*f prohibit a service provider, information provider and/or any associated individual found to have been knowingly involved in a serious breach or series of breaches of the Code from involvement in or contracting for the provision of a particular type or category of service for a defined period.*

*g prohibit a service provider, information provider and/or any associated individual found to have been knowingly involved in a serious breach or series of breaches of the Code from involvement in or contracting for the provision of any premium rate services for a defined period.”*

1. The Executive considered that Mr Darshan Singh was knowingly involved in a serious breach, or series of breaches, of the Code based on the following grounds:

### **Ground 1**

**Case reference 765871 – Speedreview Limited ('Speedreview')**

Known addresses:

- 31 Yewhurst Road, Solihull, West Midlands, B91 1PN (Current registered address)
- Euro House, Earlsway Team Valley Trading Estate, Gateshead, NE11 0RQ

This adjudication related to a service promoted through missed calls, whereby consumers received unsolicited calls to personal landlines or mobiles from one or more 070 prefixed numbers allocated to the Service Provider. The complainants were consistent in claiming that the call they received terminated after one ring, prompting consumers to return the call whilst being unaware that the number was not a mobile number and would incur higher rate charges. The vast majority of complainants who returned the call indicated that they were connected to a recording of a ringing tone. The Executive's monitoring of the service also identified that some of the numbers were associated with a company called 'Promotions Today'.

The Tribunal, which adjudicated on the case on 2 April 2009, regarded the overall seriousness of the case as 'very serious' and imposed the following sanctions against the Service Provider:

- A formal reprimand;
- A fine of £150,000; and
- The Tribunal also ordered that claims for refunds are to be paid by the Service Provider for the full amount spent by users, except where there is good cause to believe that such claims are not valid.

As the fine and administrative charges issued to Speedreview were not paid, further breaches of the Code were upheld against the Service Provider, pursuant to Code paragraphs 8.9.3b (non-compliance with an imposed fine sanction) and 8.12 (non-payment of an invoiced administrative charge). Speedreview is currently on the PhoneyPayPlus list of 'Barred SPs for non-payment of fines'.

The Executive provided evidence that Darshan Singh was appointed Director of Speedreview on 30 June 2008 and signed a contract on 25 June 2008 for the provision of the 070 numbers used to operate the premium rate service. The revenue generated by the service related to the period commencing 27 June 2008. The Executive therefore asserted that Darshan Singh was knowingly involved in the serious breaches of the Code by Speedreview.

## **Ground 2**

Case reference 774947 – Jay Singh t/a JST Promotions ('JST Promotions')

Known addresses:

- 19 Kenyon Street, Birmingham, West Midlands, B18 6AR
- 176 Monument Road, Edgbaston, Birmingham B16 SXF (Previous address)

This adjudication related to a service promoted through missed calls, whereby consumers received unsolicited calls to personal mobiles from one or more 070 prefixed numbers allocated to the Service Provider. The complainants were consistent in claiming that the call they received terminated after one ring, prompting consumers to return the call whilst being unaware that the number was not a mobile number and would incur higher rate charges. The vast majority of complainants who returned the call indicated that they were connected to a recording of a ringing tone. The Executive's monitoring of the service also identified that some of the numbers were associated with a company called 'Promotions Today'.

The Tribunal, who adjudicated on the case on 2 April 2009, regarded the overall seriousness of the case as 'very serious' and imposed the following sanctions against the Service Provider:

- A formal reprimand;
- A fine of £110,000; and
- The Tribunal also ordered that claims for refunds are to be paid by the Service Provider for the full amount spent by users, except where there is good cause to believe that such claims are not valid.

The Executive referred to the fact that the services operated by Speedreview and JST Promotions both used numbers associated with the company, Promotions Today, and that the scripts for these numbers mimicked one another. The Executive therefore asserted that, on a balance of probabilities, Darshan Singh, the Director of Speedreview, was knowingly involved in the breaches for this service.

2. The Respondent responded to the Executive's allegations as follows:

### **Ground 1**

The Respondent stated that he signed the contract referred to by the Executive, and subsequently sub-contracted these numbers to another company. He stated that, at the time he invoiced Hotchilli Communications, he was then informed by them that the payment had been withheld. He stated that, upon being informed the reason for non-payment, he immediately disconnected the services.

### **Ground 2**

The Respondent stated that, as referenced in his answer to Ground 1, these numbers were sub-contracted to another company. He stated that, as this company was operating the numbers, he had no information or knowledge as to who was answering the calls, or any recordings. He stated that he was not aware, or had no knowledge of, any company called 'JST Promotions'.

3. The Tribunal considered the evidence and, in relation to Ground 1, noted that Mr Darshan Singh was appointed a Director of Speedreview on 30 June 2008 and signed a contract on 25 June 2008 for the provision of 070 numbers used to operate the premium rate service that was the subject of the previous adjudication.

In relation to Ground 2, the Tribunal did not consider that there was sufficient evidence to find that Mr Darshan Singh had been knowingly involved in the breaches of the Code by JST Promotions. The Tribunal found that the fact that Speedreview and JST Promotions used the same numbers and scripts was not sufficient to establish a link between the two businesses.

The Tribunal found that Mr Darshan Singh was, by virtue of his directorship of Speedreview Limited, an associated individual, who had been knowingly involved in a serious breach of the Code in respect of the matter involving Speedreview Limited (Case ref. 765871).

The Tribunal found that Mr Darshan Singh had been knowingly involved in a series of breaches of the Code in relation to ground 1 only.

**Decision: UPHELD on ground 1 only**

## **SANCTIONS**

The Tribunal decided to prohibit Mr Darshan Singh from involvement in, or contracting for, the provision of any premium rate service for a period of two years, under paragraph 8.9.2g of the Code.