

# THE CODE COMPLIANCE PANEL OF PHONEPAYPLUS TRIBUNAL DECISION

Thursday 4 March 2010  
TRIBUNAL SITTING No. 48/ CASE 6  
CASE REFERENCE: 821927/JI

Associated Individual: Ranbir Singh Kaloya  
Service Provider: PCB Telecom Limited

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

### BACKGROUND

PhonepayPlus had evidence suggesting that Mr Ranbir Singh Kaloya 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 Ranbir Singh Kaloya as an associated individual. The Executive notified Mr Ranbir Singh Kaloya 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 Ranbir Singh Kaloya 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 has not been provided to date.

Ranbir Singh Kaloya did not exercise his right to make an Informal Representation to the Tribunal.

The Tribunal made a decision on the proposed sanction 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 Ranbir Singh Kaloya was knowingly involved in a serious breach or series of breaches of the Code based on the following grounds:

#### **Ground 1**

Case reference 766056 – PCB Telecom Limited (‘PCB Telecom’)

Known addresses:

- Redfern House, 29 Jury Street, Warwick, CV34 4EH
- 121 High Street, West Bromwich, B70 6NY (Previous address)

The Executive submitted that 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 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 £500,000; 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 PCB Telecom were not paid, further breaches of the Code were upheld against the Service Provider, pursuant to paragraphs 8.9.3b (non-payment of fine) and 8.12 (non-payment of administrative charge) of the Code. PCB Telecom is currently on the PhonepayPlus list of ‘Barred SPs for non-payment of fines’.

The Executive provided evidence that Ranbir Singh Kaloya was appointed Secretary of PCB Telecom on 9 August 2007 and signed contracts on 18 October 2007 and 27 November 2007 for the provision of the 070 numbers used to operate the premium rate service. The revenue generated by the service relates to the period commencing 19 October 2007. The Executive therefore asserted that Ranbir Singh Kaloya was knowingly involved in the serious breaches of the Code by PCB Telecom.

## **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)

The Executive submitted that 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, 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 £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 asserted that Ranbir Singh Kaloya was the primary regulatory contact given to the Executive for the number 07061729843, allocated to JST Promotions, using the email address Ranbir@jstpromotions.co.uk. The Executive therefore asserted that Ranbir Singh Kaloya was knowingly involved in the serious breaches of the Code by JST Promotions.

2. The Respondent did not respond to the allegations.
3. The Tribunal considered the evidence and, in relation to Ground 1, noted that Mr Ranbir Singh Kaloya was the company secretary of PCB Telecom in August 2007 and signed contracts on 18 October 2007 and 27 November 2007 for the provision of 070 numbers used to operate the premium rate service that was subject of the previous adjudication.

In relation to Ground 2, the Tribunal accepted the Executive's assertions that Mr Ranbir Singh Kaloya had been the main regulatory contact for JST Promotions.

The Tribunal found that Mr Ranbir Singh Kaloya, by virtue of his role as the company secretary of PCB Telecom Limited and as principal regulatory contact for JST Promotions, was an associated individual, who had been knowingly involved in a series of breaches of the Code, in respect of the following matters: Jay Singh t/a JST Promotions Limited (Case ref. 774947) and PCB Telecom Limited (Case ref. 766056).

The Tribunal found that Mr Ranbir Singh Kaloya had been knowingly involved in a series of breaches of the Code in relation to grounds 1 and 2.

**Decision: UPHELD on grounds 1 and 2**

## **SANCTIONS**

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