

THE CODE COMPLIANCE PANEL OF PHONEPAYPLUS TRIBUNAL DECISION

Thursday 21 JULY 2011 TRIBUNAL SITTING No. 81/ CASE 1

CASE REFERENCE: 822123/DL

Information provider:	ContactSMS Limited, Manchester;
Service providers:	Wireless Information Network Limited (WIN), High Wycombe; Tanla Solutions (UK) Limited, London; mBlox Limited, London
Type of service:	Item download service
Service title:	
Service number:	85222 (WIN), 81404 (Tanla) and 80160 (mBlox)
Cost:	£1.50 per month
Network operator:	All Mobile Network Operators
Number of complainants:	67

THIS CASE WAS BROUGHT AGAINST THE INFORMATION PROVIDER UNDER PARAGRAPH 8.7 OF THE CODE

BACKGROUND

The Executive received 67 complaints between 15 July 2009 and 11 February 2011 in relation to an item download service operating on shortcodes 85222, 81404 and 80160. Complainants stated that they had received unsolicited text messages charged at £1.50 each, an example of which is as follows:

'New Top Ringtones Uploaded Text SONG to 85222 to get your TONES. Service by contactsms Help? 08081201926 150pmonth 16+ txt STOP to STOP'

Following receipt of consumer complaints and a number of concerns regarding the service, principally that the service is promoted to consumers without the consent required and consumers were subsequently billed without knowledge of the subscription charges, the Executive decided to conduct an investigation under the PhonepayPlus Code of Practice (11th Edition, Amended April 2008) ('the Code').

The Service

How the service was intended to operate according to the Information Provider

In October 2008, a representative of the Information Provider had described the intended operation of the service to the Executive and to two aggregators when requesting compliance advice. The representative had stated that the Information Provider intended to send SMS WAP-push marketing to a database of consumers who had opted-in to receive such promotions. The WAP-push, if selected, would then take consumers to a WAP site providing an unlimited download service for items, such as ringtones and adult videos. Following an initial free 48-hour period, access to the download service would cost £1.50 per month. The WAP site would set out the terms and conditions of the service, including how to unsubscribe from the service and from further marketing. Consumers who subscribed to the service would be sent a free SMS message confirming their subscription. Subscribed consumers would receive a premium

SMS message each month, charged at £1.50, confirming their continued subscription and providing a link at which they could access updated content to download.

In October 2008, in response to this description of the service, compliance advice was provided by the Executive. Amongst other things, the Executive advised that the Information Provider should retain fully auditable information proving that consumers have opted-in to receive promotional messages, and that failure to provide such information may result in breaches of the Code being upheld.

In September 2010, the Information Provider told the Executive that the promotion of the service was changing from direct SMS marketing, as described above, to increased reliance on banner advertising on internet and WAP sites.

The Investigation

Following receipt of several complaints relating to four different shortcodes, the Executive conducted preliminary investigations, which included requesting information from the Service Providers. The Service Providers and the Information Provider responded, providing various information which then prompted a further extensive preliminary investigation and consideration of complaints by the Executive. The Executive subsequently decided to deal with this matter as a Standard Procedure investigation in accordance with paragraph 8.5 of the Code. The Executive issued a breach letter to the Service Providers dated 9 June 2011. The Executive received responses from all three Service Providers and accepted that the case was one which was appropriate to be dealt with as an Information Provider case under paragraph 8.7 of the Code. The Information Provider subsequently responded to the breaches in a letter dated 8 July 2011.

On 21 July 2011, the Tribunal considered the case and made a decision on the alleged breaches raised by the Executive. No informal representations were made by the Service Providers or the Information Provider.

Preliminary matter

Prior to considering the breaches of the Code alleged by the Executive, the Tribunal considered the matter of the length of time that had elapsed between the start of the investigation and the date that the case was brought before it. The Tribunal noted the Information Provider's submission that, as a result of the delay, it was not in a position to defend itself as evidence it would have relied on was no longer available, and that therefore any adverse finding relating to disputed allegations would be manifestly unfair and that there could not be a fair hearing of the matter. The Tribunal found, upon a consideration of all the evidence, that the Information Provider had been kept fully informed from the outset as to the nature of the allegations relating to services operated by it and had been made aware of the evidence against it. The Tribunal considered that a competent Information Provider could be reasonably expected to have maintained a record of such information and evidence that it had received. The Tribunal also found that the Information Provider had contributed to the delay by providing misleading information to the Executive and by frequently migrating the service from one Service Provider to another. The Tribunal therefore rejected the submission of the Information Provider and proceeded to consider the alleged breaches of the Code.

SUBMISSIONS AND CONCLUSIONS

**ALLEGED BREACH ONE
PROVISION OF INFORMATION (Paragraph 3.2.2)**

“Service providers must provide to PhonepayPlus without delay such information as it may require for any purpose relating to this Code which may include but is not limited to:

- a. any number ranges (including dialling codes) or other connection arrangements allocated to it by Ofcom or any network operator,*
- b. if the service requires or involves access to any website, the URL of the site,*
- c. the name, address, e-mail address, phone and fax number of the person representing the service provider who is nominated to receive all communications in connection with the application of the Code, enabling contact to be made with that person at all necessary times, and, if that person is not a director of the service provider, the name of the director with primary responsibility for premium rate services,*
- d. the name and home address of each of the directors and their phone and fax numbers and e-mail addresses.”*

1. During its investigation, the Executive requested information from the Information Provider under paragraph 8.3.3 of the Code. The Executive had concerns about the accuracy of the information provided by the Information Provider.

Example WAP images and banner advertisements

The Information Provider supplied the Executive with examples of web banner advertising which it claimed was one of the routes by which consumers had opted-in to its subscription service (Appendix A). One of the adverts contained a shortcode which the Executive discovered, upon further investigation, that the Information Provider had no access to and was used by an unrelated third party. The Executive alleged that the banner had been created by the Information Provider in response to an information request from the Executive, and had not been genuinely used in advertising to consumers, as claimed by the Information Provider.

The Executive also asserted that evidence from the Service Providers showed that none of the complainants, nor any other consumer, appeared to have sent a Mobile Origination message to subscribe to the service. The Executive alleged that it was likely that none of the example banner adverts supplied by the Information Provider were ever genuinely used to advertise to consumers.

Message logs

Message logs were provided to the Executive by the Information Provider and the Service Providers. The Executive identified the following discrepancies between the logs provided:

- a) Free-to-receive messages on the Information Provider’s logs which did not appear on the Service Providers’ logs;
- b) Charged messages included in the Information Provider’s logs, usually at the outset of the alleged subscribers’ interaction with the service, which did not appear on the Service Providers’ logs;

- c) Different message content for what otherwise appeared to be the same messages in the Information Provider's logs, compared to the Service Providers' logs.

The Executive alleged that these discrepancies undermined the credibility of the logs supplied by the Information provider.

December 2009 issuing of billed SMS messages via the Tanla Solutions (UK) Limited shortcode

The Executive alleged that there was a further discrepancy between information supplied to the Executive in December 2009 by Tanla Solutions (UK) Limited and information supplied by the Information Provider to the Executive in a telephone conversation in January 2010. That discrepancy was put to Tanla Solutions (UK) Limited, and the Executive alleged that its response clearly suggested that the information supplied by the Information Provider was inaccurate.

Migration of consumers from Tanla Solutions (UK) Limited to mBlox Limited

The Executive received a complaint associated with shortcode 80160 in January 2010, which indicated a migration of consumers from Tanla Solutions (UK) Limited to mBlox Limited shortly after Tanla Solutions (UK) Limited had suspended the service.

When the Executive asked the Information Provider about this apparent migration of consumers, it suggested that it would not migrate users without first consulting PhonepayPlus, and indicated that it was considering the migration of users but had not done so yet. The Executive alleged that this claim was false because the message logs showed that the migration of consumers had begun shortly before the complaint was made, and therefore before the Information Provider had claimed that the migration was being considered but had not yet taken place.

In light of the above considerations, the Executive alleged that the Information Provider had failed to provide to the Executive without delay such information as it requires for the pursuit of enforcement action under the Code, a failure which the Executive considered to be a breach of paragraph 3.2.2 of the Code.

- 2. The Information Provider accepted that the example advertising banners which it sent to the Executive were incorrect. However, the Information Provider asserted that the example banners were sent in error, and not with the intention of misleading the Executive or otherwise hampering the Executive's investigation.

With regard to the message logs, the Information Provider responded that the message logs which it supplied contained messages which were sent from overseas, which is why they did not match with the logs supplied by the Service Providers. The Information Provider stated that the Executive's investigation had been so protracted that the overseas providers' message logs had been deleted during the course of the investigation and were therefore not available to the Information Provider to support its position. The Information Provider supplied

email correspondence with a company which it claimed was its principal overseas provider of such services which it asserted supported its claim that the provider had deleted its logs.

The Information Provider denied the Executive's allegations in relation to the December 2009 issuing of billed messages via the Tanla Solutions (UK) Limited shortcode.

The Information Provider also denied the Executive's allegations relating to the migration of consumers from Tanla Solutions (UK) Limited to mBlox Limited.

3. The Tribunal considered the evidence and found that, with regard to the examples of web banner adverts supplied by the Information Provider, one advert had contained a shortcode which did not belong to and had no association with the Information Provider, and that another advert had referred to a different Information Provider. The Tribunal noted that the Information Provider had partially accepted that the banner adverts supplied were incorrect. The Tribunal's finding, taken in conjunction with the evidence of the complainants that they had not seen any such opt-in advertising, led it to conclude that the example adverts supplied by the Information Provider had not been used to promote the service to consumers, but had been created for the purposes of the Executive's investigation. The Tribunal therefore found that the Information Provider had supplied false and inaccurate information to the Executive.

With regard to the message logs supplied by the Information Provider, the Tribunal found that these logs showed a number of charged premium rate messages being sent which were not contained within the corresponding message logs supplied by mBlox Limited. Given that these were charged messages, the Tribunal would have expected a Service Provider's logs to have recorded these messages if they had been sent. The Tribunal was satisfied that the logs supplied by mBlox Limited were accurate and that therefore the information supplied by the Information Provider was inaccurate and misleading. For the above reasons the Tribunal concluded that there had been a breach of paragraph 3.2.2 of the Code.

Decision: UPHELD

ALLEGED BREACH TWO LEGALITY (Paragraph 5.2)

Paragraph 5.2 of the Code states that:

"Services and promotional material must comply with the law. They must not contain anything which is in breach of the law, nor omit anything which the law requires. Services and promotional material must not facilitate or encourage anything which is in any way unlawful."

1. The Executive made reference to Regulation 22 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 ('the Regulations') which makes it an offence to send unsolicited promotions using electronic mail (including text messages) for direct marketing purposes, unless:

- a) the recipient has specifically consented to receiving such promotions (this is known as the “hard opt-in”); or
- b) the recipient’s details were obtained whilst purchasing a similar or related product or service to that now being promoted, and the recipient was given the opportunity, when his details were collected, to opt out (without charge) of receiving further communications, and is given the same opportunity in each subsequent communication (this is known as the “soft opt-in”).

The Executive submitted that all 67 complainants stated or indicated that they had received unsolicited messages on their mobile handset. Examples of such messages were as follows:

“New Top Ringtones Uploaded Text SONG to 85222 to get your TONES. Service by contactsms Help? 08081201926 150pmonth 16+ txt STOP to STOP”

“FreeMsg: UR subscription to tone service is changing shortcode from 85222 to 81404 Cost Â£1.50 per month Help? 08081201926 SP ContactSMS Text STOP to STOP”

“Unlimited downloads! Visit www.real-tonez.com/wap2”

“Unlimited Downloads! Content uploaded weekly at <http://www.real-tonez.com/wap2> Help?08081201926 Sp.ContactsSMS Text STOP to 80160 to cancel.”

The Executive noted that the Information Provider had claimed that it used a ‘fully opted-in database’ for the purpose of WAP-push marketing to consumers, and that it provided a copy of a document which it claimed was a contract for the supply of such a database. However, the Executive also noted that, despite requests from the Executive, the Information Provider had not supplied any evidence as to which consumers were contained in the database and how and when they had opted-in.

The Executive further submitted that the Information Provider was required by mBlox Limited, under its Customer Care Form (CCF), to collect Mobile Originating (MO) messages prior to issuing the WAP-push promotional messages. With one exception, the message logs supplied to the Executive by mBlox Limited did not show any MO messages being received on mBlox Limited shortcodes prior to promotional or service messages being issued to consumers. The exception related to a request for opt-in details from the Executive, to which the Information Provider claimed that the keyword ‘choice’ had been sent by a consumer to shortcode 69912. Upon subsequent investigation, the Executive discovered that this shortcode was operated by an unrelated third party which had no dealings with the Information Provider. Therefore, the Executive submitted that this consumer MO message did not constitute evidence of that consumer opting-in to the Information Provider’s service, but to a different and unrelated service.

The Executive went on to state that it had received a complaint from a consumer who said that he did not have a WAP-enabled phone. The Executive therefore submitted that this consumer could not have opted-in to the service by the WAP-push method suggested by the Information Provider.

The Executive further established that another complainant who stated that he had received unsolicited charged messages had received those messages to a fax data number which was connected with his mobile handset and billed to his account, but which he had no knowledge of. The Executive noted that the fax data number could not have been manually entered into any WAP site consenting to marketing material. Nor could opt-in MO messages be sent by the complainant's mobile handset using this fax data number. The Executive submitted that the complainant could not have opted-in from this fax data number using the method suggested by the Information Provider as he was unaware that the fax data number existed.

The Executive also noted that the mBlox Limited message logs did show some valid opt-ins by consumers, but that none of these opt-ins related to any of the complainants.

The Executive submitted that, given the above considerations and in the absence of any evidence of complainants opting-in to receive the WAP-push promotional messages, that these messages had been issued by the Information Provider in contravention of paragraph 22 of the Regulations and that the service was thereby in breach of paragraph 5.2 of the Code.

2. The Information Provider claimed that all of the numbers in question had consented to further marketing from third parties and, accordingly, they had provided soft opt-ins. In relation to the mBlox Limited CCF requirement, the Information Provider stated that the CCF had been updated to an MO opt-in, after the users had signed up to the service.
3. The Tribunal considered the evidence and found that the Information Provider had failed to provide any evidence of a fully opted-in database, despite repeated requests to do so from the Executive. The Tribunal found the complainants' evidence (as presented by the Executive) that they had either never engaged a WAP-push opt-in or sent an opt-in MO message, convincing. The examples of the complainant who had a non-WAP-compatible mobile handset, and the complainant who had been sent charged messages to a fax data number that he was unaware of, further supported this finding. The Tribunal noted that the recent message logs provided by mBlox Limited did show evidence of some valid opt-ins by consumers, but these did not relate to any of the complainants. The Tribunal found that the same logs showed that some consumers had not opted-in. The Tribunal concluded that there had been a breach of paragraph 5.2 of the Code.

Decision: UPHELD

**ALLEGED BREACH THREE
FAIRNESS (MISLEADING) (Paragraph 5.4.1(a))**

"Services and promotional material must not:

a. Mislead, or be likely to mislead in any way"

1. The Executive stated that up until January 2010 the charged service messages sent to consumers were worded as follows:

“New Top babe videos Uploaded Text FLICK to 80160 to get your videos. Service by contactsms Help? 08081201926 150pmonth 16+ STOP to STOP”

“New Top Ringtones Uploaded Text SONG to 85222 to get your TONES. Service by contactsms Help? 08081201926 150pmonth 16+ STOP to STOP”

“New Top Ten Tones Uploaded TEXT TOPTEN to 80160 to get your tones. Service by contactsms Help? 08081201926 150pmonth 16+ STOP to STOP”

The Executive stated that message logs supplied by the Service Providers indicated that some consumers failed to notice that these messages were premium SMS messages until some time after receiving the first such message.

The Executive also noted that none of the message logs for the complainants showed any messages being sent by the complainants in response to these charged messages, thereby indicating that they considered them to be promotional and not subscription service messages.

The Executive noted that the messages did not explicitly state that they were free messages. However, the Executive submitted that the provision of a trigger word and monthly service cost appeared to have misled consumers into believing the messages were free promotional messages and not charged premium SMS messages.

Given the above considerations, the Executive submitted that the service was, or was likely to be, misleading and therefore in breach of paragraph 5.4.1(a) of the Code.

2. The Information Provider submitted that the Executive had erred in alleging this breach by confusing charged and free messages. The Information Provider pointed out that all the quoted message examples given above were examples of premium SMS messages, and not of the free-to-user ‘join’ messages. The Information Provider stated that all premium messages had information about opt-out, a support number, price and age verification requirements, as required by the Code. The Information Provider stated that all subscribers to the service were sent a free-to-user ‘join’ message via an offshore route.
3. The Tribunal considered the evidence and found that the lack of evidence of valid opt-ins and the nature of the chargeable messages received had misled consumers into thinking that they were receiving promotional messages, rather than chargeable messages. This is supported by the complainants’ evidence that they had not interacted with the service and were receiving unsolicited charged texts. The Tribunal concluded that there had been a breach of paragraph 5.4.1(a) of the Code.

Decision: UPHELD

**ALLEGED BREACH FOUR
PRICING INFORMATION (Paragraph 5.7.1)**

“Service providers must ensure that all users of premium rate services are fully informed, clearly and straightforwardly, of the cost of using a service prior to incurring any charge.”

1. The Executive stated that the message logs supplied by the Service Providers indicated that, in some cases, charged premium SMS messages had been sent to consumers prior to any free promotional messages. The Executive also stated that the message logs provided by mBlox Limited showed that, in some cases, consumers had received charged premium SMS messages at the same time as WAP-push messages.

The Executive pointed out that the complainants had asserted that they did not see WAP-push promotional material or banner advertising before they received charged premium SMS messages.

The Executive stated that the mBlox Limited message log showed that one complainant had received her first free promotional message over seven weeks after she received her first charged premium SMS message. The Information Provider had claimed that the complainant’s data had been provided to it by a third party. The complainant had denied that she had opted-in to the service, and had said that she did not receive any indication from the Information Provider that she was subscribed to the service until over 11 months after she had received her first charged message.

The Executive noted that the Information Provider had supplied message logs which showed that consumers had to be aware of the cost of the service before they were sent charged messages. However, the Executive repeated its allegation that the Information Provider’s message logs were not accurate, for the reasons submitted by the Executive in relation to the alleged breach of paragraph 3.2.2 of the Code. The Executive concluded that consumers had received charged premium SMS messages before they had received any free messages containing the cost of the service.

2. The Information Provider submitted that the pricing information for the service had been available to consumers on the WAP site.

The Information Provider stated that the Executive had provided an example of a free-to-user ‘join’ message in the evidence it had gathered during its investigation.

The Information Provider submitted that the mBlox Limited message logs were incomplete because they did not include the free messages which had been sent to consumers by an offshore provider.

3. The Tribunal considered the evidence and found that the Information Provider had failed to provide any evidence that it had sent free messages containing the cost of the service to the complainants before they received charged messages. The Tribunal found that this failure was consistent with the complainants’ evidence that they did not receive the required free messages before they received charged messages. The Tribunal noted that the recent message logs supplied by mBlox Limited showed that some free messages, including pricing information, had been sent to consumers before charged messages were sent, but the same logs also showed examples where such free messages had not been sent prior to charged messages. The Tribunal concluded that a breach of paragraph 5.7.1 of the Code had occurred.

Decision: UPHELD

ALLEGED BREACH FIVE

'STOP' COMMAND (Paragraph 7.12.2 of the Code)

"It must always be possible for a user to leave a subscription service by using the 'STOP' command."

1. The Executive submitted that it had identified two complainants who had sent the 'STOP' command to the Information Provider which had not been acted upon. One of these complainants had received charged messages to a fax data number on his mobile handset that he was unaware he possessed.

In the case of the second complainant, the Executive submitted that its review of the complainant's comments and the relevant message logs supplied by the Service Providers showed that the complainant did send a 'STOP' command, which was not recorded when the service was migrated from Wireless Information Network Limited to Tanla Solutions (UK) Limited and then to mBlox Limited. The Executive stated that the message logs showed that, following migration, the complainant continued to receive messages from the service.

The Executive stated that it was uncertain whether there were other instances where the Information Provider had failed to act on a 'STOP' command. However, it stated that it considered it to be unlikely that the second complainant would have been the only consumer whose 'STOP' command was not recorded by the Information Provider when it migrated the service to a new Service Provider.

2. The Information Provider stated that it acted properly in relation to all consumers who had issued a 'STOP' command, save for consumers who had fax data numbers. The Information Provider stated that fax data numbers had been a problem for consumers on the Orange network who opted-in via WAP sites. The Information Provider's system had picked up WAP logs of the data number attached to the phone and sent premium messages to that number. Accordingly, when the customer had texted 'STOP', the text had been received from a different number. The Information Provider stated that all identified consumers who had this problem had been refunded. It also stated that processes had been put in place to ensure that there was no repetition of this problem as consumers now needed to send a MO message to opt-in to the service.
3. The Tribunal considered the evidence, including the Information Provider's partial acceptance of the breach in relation to fax data numbers. The Tribunal found that there had been a failure by the Information Provider to ensure that at least the 'STOP' commands sent by the two complainants referred to by the Executive were actioned. The Tribunal concluded that there had been a breach of paragraph 7.12.2 of the Code.

Decision: UPHELD

ALLEGED BREACH SIX

SUBSCRIPTION INITIATION MESSAGE (Paragraph 7.12.4)

“Users must be sent a free initial subscription message containing the following information before receiving the premium rate service:

- a. name of service,*
- b. confirmation that the service is subscription-based,*
- c. what the billing period is (e.g. per day, per week or per month) or, if there is no applicable billing period, the frequency of messages being sent,*
- d. the charges for the service and how they will or can arise,*
- e. how to leave the service,*
- f. service provider contact details.”*

1. The Executive stated that message logs supplied by the Service Providers showed that, up until January 2010, no free messages were sent to consumers via their platforms. The Executive stated that complainants had reported receiving messages beginning “FreeMsg”, but only after January 2010.

The Executive stated that the Information Provider’s message logs suggested that all consumers had been sent free messages as required by the Code. Examples of such subscription initiation messages were as follows:

“FreeMsg: You are subscribed to Tones-Etc for cost of £1.50 per week until you send STOP to 80160. 16+ SP: ContactSMS Help?0808 120 1926”

“FreeMsg: You have joined our Tonesuwant mobile subscription service. Costs £1.50 a month. To stop text STOP to 85222 Help 08081201926 SP:ContactSMS”

“FreeMsg: You have joined our Mobi-babes mobile subscription service. Costs £1.50 a month. To stop text STOP to 85222 Help 08081201926 SP:ContactSMS”

The Executive repeated the assertion it made in relation to its earlier allegation of a breach of paragraph 3.2.2 of the Code; that it considered the message logs supplied by the Information Provider to be an inaccurate record. The Executive stated that without any supporting evidence of the messages quoted above being sent to consumers, and in light of the complainants’ evidence which contradicted the Information Provider’s claims, no subscription initiation messages appeared to have been sent to consumers once they had been signed-in to the service.

2. The Information Provider stated that the message logs supplied by the Service Providers were incomplete because the free initial subscription messages were sent to consumers by an overseas provider. For the reason already explained in response to the allegation of a breach of paragraph 3.2.2 of the Code, the Information Provider stated that it was unable to provide the message logs of this overseas provider because of the protracted nature of the investigation conducted by the Executive.
3. The Tribunal considered the evidence and found that the complainants did not receive a free subscription initiation text message with the relevant service information required under the Code. The Tribunal noted that recent logs provided by mBlox Limited had showed that some consumers had received subscription initiation messages. However, it found that the same logs also

showed that other consumers had not received the required free subscription initiation messages. The Tribunal concluded that there had been a breach of paragraph 7.12.4 of the Code.

Decision: UPHELD

SANCTIONS

The Tribunal's initial assessment was that, overall, the breaches taken together were **serious**.

In determining the sanctions appropriate for the case, the Tribunal took into account the following aggravating factors:

- The service provided was valueless to those consumers who had not requested the service.
- The behaviour of the Information Provider was deliberate in that, despite the service being suspended by Service Providers, the Information Provider had deliberately transferred the service to a new Service Provider, rather than resolving the compliance issues. The Information Provider had also failed to follow compliance advice and had deliberately provided false, inaccurate and misleading information to the Executive.
- There was material consumer harm given that there were 67 consumer complaints, many of which were vociferous.
- Non-compliant subscription services have been singled out for criticism by PhonepayPlus.

The Tribunal took into account the following mitigating factors:

- There was some evidence that the Information Provider had offered refunds to some users.

The revenue in relation to this service was in the range of Band 2 (£250,000 - £499,999).

Having taken into account the aggravating and mitigating factors, the Tribunal concluded that the seriousness of the case should be regarded overall as **serious**.

Having regard to all the circumstances of the case and the revenue generated by the service, the Tribunal decided to impose the following sanctions:

- A Formal Reprimand;
- A fine of £100,000;
- A prohibition on the Information Provider from involvement in, or contracting for, the provision of premium rate subscription services for a period of six months (starting from the date of publication of this decision); and
- The Tribunal also ordered that claims for refunds are to be paid by the Information Provider for the full amount spent by complainants, save where there is good cause to believe that such claims are not valid.

Appendix A – Example WAP images and banner advertisements

CONTACTSMS
PRESENTS
**ALL THE LATEST
TONES FOR
YOUR MOBILE**



**UNLIMITED
DOWNLOADS
£1.50
per WEEK***

**Text TOPTEN
to 80160**

*SUBSCRIPTION SERVICE
COSTS £1.50 PER WEEK
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TO STOP.
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