



### Tribunal Sitting Number 137 / Case 2

**Case Reference:** 13335  
**Level 2 provider:** Amectro Ltd, Dubai UAE  
**Type of Service:** Glamour video downloads- “Home Fun”, “Sexy hot babes!” and others  
**Level 1 provider:** Openmarket Limited, UK  
**Network operator:** All Mobile Network operators

### **THIS CASE WAS BROUGHT AGAINST THE LEVEL 2 PROVIDER UNDER PARAGRAPH 4.4 OF THE CODE**

#### **BACKGROUND**

Between 26 September 2012 and 18 June 2013, PhonepayPlus received 19 complaints from consumers in relation to a pay-per-stream glamour video download service (the “Service”). It was operated by the Level 2 provider Amectro Ltd, under the brand names “Home Fun”, “Sexy hot babes!” and others. The Service operated on the premium rate shortcode 89800 and cost £3.00 for 24 hours access or £3.00 per download depending on the consumer’s method of entry. The Level 1 provider was Openmarket Limited. The Service operated between 8 February 2011 and 12 March 2013, when it was voluntarily suspended by the Level 1 provider following correspondence with PhonepayPlus.

The majority of complainants stated that they had not engaged with the Service but had been charged. In addition, some complainants stated that they had not received any Service messages and the charges were unsolicited. Certain complainants acknowledged receiving messages from the Service but stated that they were unsolicited. The maximum cost incurred by a complainant was reported to be £165.00.

#### **The Investigation**

The Executive conducted this matter as a Track 2 investigation in accordance with paragraph 4.4 of the PhonepayPlus Code of Practice (12<sup>th</sup> Edition) (the “Code”).

The Executive sent a breach letter to the Level 2 provider on 7 October 2013. Within the breach letter the Executive raised the following breaches of the Code:

- Rule 2.3.3- Consent to charge
- Paragraph 4.2.5 – Failure to disclose information

Prior to commencement of its determination of the breaches, the Tribunal adjourned the case to allow the Executive time to ensure that the Level 2 provider had received the breach letter and was aware of the proceedings.