



Tribunal meeting number 166 / Case 1

**Case reference:** 49874  
**Level 2 provider:** Infernal Publishing Ltd (Belfast, UK)  
**Type of service:** Video subscription service  
**Level 1 provider:** Velti DR Limited (UK), GSO MMBU Private Company Limited T/A mGage (UK), Sensoria Communications Limited (UK) and Fonix Mobile 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 21 July 2014 and 18 March 2015, PhonepayPlus received 47 complaints from consumers in relation to a video subscription service (“**the Service**”) operated by the Level 2 provider, Infernal Publishing Ltd (“**the Level 2 provider**”). The Service operated under the brand name “TV Babes” on the premium rate shortcodes 69500 and 79900. Consumers were charged £1.50 per week. The Executive understood that the following Level 1 providers had been in the value chain at some point: Velti DR Limited, GSO MMBU Private Company Limited trading as mGage, Sensoria Communications Limited and Fonix Mobile Limited; but where the Level 1 providers sat in the value chain was not known. The Level 2 provider submitted that the Service commenced operation in July 2014 (although the the Service appeared to have been operating using the same brand name since November 2011) and it continues to operate. The Level 2 provider stated that it had suspended promotions for the Service in January 2015.

The Service was promoted online via certain third party adult websites. Consumers were invited to pay for adult video content by sending an SMS message containing a keyword to a shortcode. Separately, for a short period of time there was an alternative PIN method of entry for the Service. Consumers were issued with an SMS code which they could enter on the website to unlock video content and they were charged between £3 and £5 for that service. In addition, sending the keyword also subscribed consumers to the Service and a link to an adult video would be sent to their MSISDN weekly.

Complainants routinely stated that they had received unsolicited, reverse-billed SMS messages and that they had not engaged with the Service.

### 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 1 April 2015. Within the breach letter the Executive raised the following breaches of the Code:

- Rule 2.3.2 – Provision of information likely to influence the decision to purchase
- Rule 2.4.2 - Consent to charge
- Rule 2.2.5 – Pricing prominence and proximity
- Rule 2.2.1 (a) – Provision of the Level 2 provider’s identity



The Level 2 provider responded on 24 April 2015. On 14 May 2015, the Tribunal reached a decision on the breaches raised by the Executive.

The Tribunal considered the following evidence in full:

- The complainants' accounts;
- A sample of the Executive's requests for information to the Level 2 provider;
- Correspondence between the Executive and the Level 2 provider (including directions for information and the Level 2 provider's responses including supporting documentation);
- Previous complaint resolution procedures against the Level 2 provider;
- A sample of the Level 1 provider message logs;
- PhonepayPlus Guidance on "Promotions and promotional material" and "Privacy and Consent to Charge"; and
- The breach letter of 1 April 2015 and the Level 2 provider's response of 24 April 2015 (including supporting documentation).

### **SUBMISSIONS AND CONCLUSIONS**

#### **Previous complaint resolution procedures**

The Executive noted that the Level 2 provider had had several prior informal dealings with the PhonepayPlus Complaint Resolution Team ( the "CRT"), the most recent of which the Executive relied on as part of its case. Further details of these contacts are contained under the breaches raised by the Executive. A summary of the procedures were as follows:

#### **October 2012 – Track 1 procedure**

The CRT raised a potential breach of rule 2.2.1 of the Code as it was not clear from the promotional material that a user dialing the premium rate number or voice shortcode to speak to an on screen female was also clearly informed they would be subscribed to a £1.50 per week subscription service. The Level 2 provider accepted this concern and agreed to amend its terms and conditions to make it clear that interacting with a premium rate number would also subscribe a consumer to a weekly subscription service. In addition, it agreed that this information would be placed directly in relation to the service that was being promoted and not obscured amongst other information. In light of this assurance, the CRT dealt with the matter as a Track 1 procedure and closed the investigation.

#### **April 2013 – Track 1 procedure**

The CRT raised concerns around the presentation of pricing information and stated that the subscription element of the Service may not have been viewed by consumers. In addition, the CRT stated that there was no premium rate contact number and the Level 2 provider's identity was not included in promotional material, as trading names such as "Firstlight" were not acceptable. The Level 2 provider stated that the subscription element of the Service had been removed and it confirmed that the other suggested changes had been made. Accordingly, the CRT dealt with the matter as a Track 1 procedure and closed the investigation.

#### **August 2013 – Track 1 procedure**

The CRT raised concerns regarding the presentation of the pricing information, that the Level 2 provider had used the trading name "Firstlight Mobile" in promotions for the Service and that the two elements of the Service (the initial fixed charge for video content and the weekly subscription



element) were not sufficiently clear. The Level 2 provider stated that the PIN method of entry and the subscription element of the Service had ended and accordingly, the CRT dealt with the matter by way of a Track 1 procedure for the pricing issue and the absence of the Level 2 provider's identity and the investigation was closed.

### November 2013 – Track 1 procedure

The CRT raised a potential code breach of rule 2.3.1(d) as message logs for complaints showed that no subscription reminder messages had been sent as required. The Level 2 provider confirmed that it would resolve this issue and accordingly the matter was dealt with as a Track 1 procedure and the investigation was closed.

### June 2014 – Initial assessment

The CRT raised an issue regarding delays between the subscription mobile originating ("MO") message being sent and the Level 2 provider processing the subscription confirmation message. The matter was not pursued at that time as the CRT received an assurance from the Level 2 provider that the Service was no longer being promoted and that all consumers would be refunded if they were unhappy with the Service.

## ALLEGED BREACH 1

### Rule 2.2.1

"Consumers of premium rate services must be fully and clearly informed of all information likely to influence the decision to purchase, including the cost, before any purchase is made."

1. The Executive submitted that the Level 2 provider had breached rule 2.2.1 of the Code as promotional material for the Service did not provide sufficient information in relation to the subscription element of the Service.

The Executive relied on the content of PhonepayPlus Guidance on "Promotions and Promotional Material" (the "**Guidance**"). The Guidance states:

#### Paragraph 1.1

"There is a vast range of potentially different types of PRS. Each of these may need to give slightly different information to a consumer within their promotion(s), in order to ensure consumers have all the information they would reasonably need before purchasing."

The Executive understood that consumers were supplied with two services upon responding to the promotion. Firstly consumers were charged a fixed rate of £3 or £5 when they sent a keyword to a shortcode, which unlocked promoted adult video content. Secondly, by sending the keyword consumers were also automatically subscribed to the Service, whereby they were also charged £1.50 per week to receive a link to an adult video, which was sent to their MSISDNs.

In addition to the above, at the Tribunal, the Executive noted that in response to the breach letter, the Level 2 provider had stated that the first element was a separate service that was not operated by it. For the purposes of this case the Executive did not dispute that this may be the case as it had no evidence to suggest otherwise. However, the Executive highlighted that throughout the investigation, this issue had not been clarified by the Level 2 provider.



The Executive noted that the Level 2 provider had previously been subject to a number of PhonepayPlus complaint resolution procedures. On 25 July 2013, as part of a Track 1 investigation, a member of the CRT contacted the Level 2 provider and raised the following concern:

“As you will remember I expressed concerns when both the £3 charge and £1.50 a week subscription elements were being promoted in this way. Did you seek compliance advice, as I suggested doing so?”

The Level 2 provider responded and stated:

“[T]he subscription element of the service was brought back for a short period of time with the revised text that stated: ‘You will also be subscribed..’ which we felt made it clearer that the user will also be entering a subscription service.”

The Level 2 provider also stated that the promotion of the PIN and subscription elements of the Service had now ended so there would not be any further consumers joining the Service and it did not intend to start the subscription element of the Service again. Furthermore, it stated that to avoid future concerns it would ensure that it sought advice from PhonepayPlus for any new service that it commenced. The Executive noted that the Level 2 provider continued to promote the Service using both the PIN and subscription elements.

In response to a direction for information from the Executive dated 29 January 2015, the Level 2 provider supplied several examples of promotional material for the Service (**Appendix A, B, C and D**). The Executive noted the promotion at **Appendix C** was submitted as an example of what consumers would have viewed if they had interacted with the PIN entry route. The Executive also noted that **Appendix A, B and C** included the following information, “You will be billed [£3/£5] + £1.50/week subscription”. **Appendix D** contained more information regarding the subscription element of the Service than the other promotions as it stated:

“You will receive your PIN via SMS. You will be charged £3 to your mobile bill. Standard network charges may apply. You will also be subscribed to TV Babes adult video subscription for £1.50/week opt out text STOP to 69500. Service run by First Light Mobile 08444485440.”

In relation to **Appendix A, B and C**, the Executive submitted that the information was insufficient to explain the nature of the Service. Further, it submitted that although the promotion at **Appendix D** explained that consumers would also be subscribed to the TV Babes adult video subscription it was not clear what consumers should expect to receive, or when and how they would receive it. The Executive submitted that consumers were not given sufficient information as to the nature of the subscription element of the Service, which consumers needed in order to allow them to make an informed decision to purchase. It was not clear in all cases that the subscription element of the Service supplied separate content to the one-off charge. The Executive asserted that due to the unusual service mechanic, it should have been made very clear to consumers that in order to unlock the video content they would also be signed up to a weekly subscription.

The Executive submitted that the risk of harm to consumers due to not understanding key information about the Service was compounded by the fact that there was often a substantial delay between consumers receiving the code to unlock the online material, and



receipt of the first subscription message. On 20 June 2014 a member of CRT requested the following information in relation to delay as part of an initial assessment:

“I would like some clarity around why there are delays between the confirmations of the subscription message from the MO opt in message. Please see example log attached. MO Opt in was on 18/01/2014; however the subscription confirmation message was sent on 6/02/2014.”

The Level 2 provider responded with the following statement:

“Due to the limitations of the technology involved there was a delay between joining customers onto the second system, so in recognition of this a free message was sent 24 hours before billing started to ensure the consumer was aware of the full pricing of the service, how to opt-out and our customer service number. An example of the free message is: You are subscribed to TV Babes for £1.50 per week until you text STOP to 69500 Hot new videos every week! Help: 08444485440 1stlight”

At the time of the initial assessment, the Level 2 provider assured the Executive that the Service was no longer promoted and on that basis, the case was closed. However the Executive noted that this issue had then continued. It referred to a complainant’s message log that demonstrated that the complainant had sent a MO message on 4 August 2014 but the first subscription message for the Service had not been received until 14 August 2014.

The Executive highlighted that the Code requires that consumers are fully and clearly informed of the relevant information before any purchase is made. It submitted that it was not sufficient to send details of the subscription element of the Service days or sometimes weeks after a consumer had subscribed. Accordingly the Executive asserted that the Level 2 provider had failed to fully and clearly inform consumers of all information likely to influence their decision to purchase before any purchase is made, and therefore had acted in breach of rule 2.2.1 of the Code.

2. The Level 2 provider denied that a breach of rule 2.3.2 of the Code had occurred and stated that the promotional material and particularly the terms and conditions for the Service had always made it clear that the Service was a subscription service that cost £1.50 per week.

The Level 2 provider explained that the two elements referred to by the Executive were in fact two separate services; the initial purchase of 12 hours of video content for £3 or £5 was not provided by the Level 2 provider, but the subsequent provision of content for £1.50 per week was provided by the Level 2 provider. The Level 2 provider asserted that this had been made clear in earlier correspondence with the Executive. The Level 2 provider stated that at the point the consumer purchased the 12 hours of video content, a message would be sent to the consumer’s MSISDN containing the details of the Service and the consumer would have the option to cancel the Service without incurring any further charges. The Level 2 provider stated that consumers were also sent weekly reminders before the billing cycle and spend reminder messages.

In relation to previous advice received by the Executive, the Level 2 provider commented on each of the informal procedures that had been noted by the Executive above under the heading “Submissions and Conclusions”.

**October 2012**



The Level 2 provider stated that this related to an earlier version of its Service which a consumer would interact with via a premium rate number. It subsequently ceased promoting the Service via this method and it made the terms and conditions more prominent on the web promotion. The Level 2 provider stated that this matter was resolved over two years ago and it related to a separate and distinct version of the Service, therefore its inclusion was unfair and prejudicial.

### **April 2013**

The Level 2 provider stated that it had not been previously advised to change the size, colouring or prominence of the terms and conditions, the pricing information or its details. The Level 2 provider asserted that the CRT had accepted that it was clearer for consumers that if any calls were made to the customer service number, it should be immediately recognisable as the correct service provider. The live operator would answer as “First Light Mobile”, which was the name on the promotions. The Level 2 provider stated that this matter was resolved two years ago and its inclusion was unfair and prejudicial.

### **August 2013**

The Level 2 provider stated that it disagreed with the Executive’s assessment of this procedure and its promotional material proved that it had gone above what was required by the Code. Whilst the content was owned and the initial Service was set up by the Level 2 provider, it had wanted a clearer flow and a more relevant identity for consumers, which is why it had used the name “First Light Mobile”.

### **November 2013**

This case concerned the discrete issue of spend reminder messages which it had resolved to the satisfaction of the CRT. The Level 2 provider stated that this case was concluded over a year ago and its inclusion was unfair and prejudicial.

### **June 2014**

The Level 2 provider stated that the delay had been acknowledged and promotion of the Service was suspended until it could remove the delay. Once it had done so, it commenced promotion of the Service again. It submitted that the version of the Service viewed on this date was fully approved by the CRT and only after receiving its approval did it re-launch the Service.

The Level 2 provider submitted that the previous advice had been in relation to a distinct version of the Service which was not the subject of this case. The Level 2 provider took issue with the inclusion of the previous Track 1 procedures and stated that the Executive had included an incomplete account in the breach letter of correspondence relating to the November 2013 matter.

The Level 2 provider drew the Tribunal’s attention to the correspondence with two members of the CRT in November 2013 and June 2014 and stated that on both occasions it was not informed that the Service had to be amended to ensure that consumers understood what they would receive, and when or how they would receive it. Had any changes been required, the Level 2 provider asserted that it would have happily complied. The Level 2 provider made it clear that it had not simply continued to promote the Service following any



advice from the Executive, it had launched an amended version of the Service in an attempt to address earlier concerns.

The Level 2 provider disputed the Executive's claim that the nature of the Service was unclear. It stated that consumers would have visited the mobile video content delivery site, which stated that they would receive further weekly content and that it was clear that it was a mobile application, billed via the consumer's mobile phone. The Level 2 provider submitted that this information was stated prominently and not hidden in small text, as the information took up at least 25% of the promotion and it fully detailed the type of Service it was.

The Level 2 provider submitted that there had been no consumer harm or any gross overcharging for content (which it stated it had seen in the industry). The Level 2 provider provided two testimonials complimenting it on the Service and its exceptional customer service.

The Level 2 provider explained that for every complaint received it had refunded the complainant in full. The Level 2 provider highlighted that the Service had received 47 complaints over a nine month period, which was less than one per week and fairly small when compared with its 4000 satisfied consumers. It asserted that the number of complaints had accumulated since the beginning of the investigation and they were only included in this case as a result of the Executive's delay in dealing with the case. Taking this and the other factors into consideration, it believed that the case should be dealt with under the Track 1 procedure.

The Level 2 provider quoted the Guidance and stated in relation to each paragraph how it believed it had met the requirements in its promotions for the Service. In summary, it stated that the pricing information was clearly next to the call to action, no scrolling of the page was required to view it, and the background colour of the page was lighter than the colour of the text.

Specifically in relation to the promotions at **Appendix A, B** and **D**, the Level 2 provider stated the following:

- **Appendix A** – the promotion had been reviewed by the Executive two years ago. It stated that the Executive's concern was that the pricing information was not sufficiently prominent as it was displayed as part of a paragraph of information. The Level 2 provider stated that as a result of this advice, it amended the promotion.
- **Appendix B** – the promotion had been amended so that the pricing information was directly underneath the call to action and not in a block of text.
- **Appendix D** – the promotion was used in January 2013, before the Executive gave advice in November 2013. This promotion was amended following advice from the Executive. The promotion was reviewed by the Executive in June 2014 and it did not mention any concerns about the nature of the Service being unclear.

In conclusion, the Level 2 provider submitted that the Executive's case was:

- Disproportionate, in light of all the information it had provided;
- Unreasonable, in view of its history of reacting immediately to any concerns about its services, voluntarily suspending its services each time until the concerns had been resolved and demonstrating an obvious willingness to comply. Most significantly the Level 2 provider submitted that despite members of the CRT in



November 2013 and June 2014 reviewing the Service, concerns regarding the subscription element of the Service were not raised. It stated that it felt, “tricked into thinking our service was satisfactory and compliant, and then held to ransom on this previously unknown concern”;

- Unfair based on the Executive’s presentation of the case in the breach letter, as the Executive had produced snippets and excerpts from historic cases and drawn conclusions which were not supported by the full correspondence and the context of the matter.

In all the circumstances, the Level 2 provider denied that it had breached rule 2.2.1 of the Code.

3. The Tribunal considered the Code and all the evidence before it, including the Level 2 provider’s written submissions.

The Tribunal noted that the Level 2 provider had submitted that it had received advice and guidance from the CRT in earlier informal procedures, and concerns regarding this breach of rule 2.2.1 had not been raised and/or the CRT had always accepted the revised promotion of the Service was satisfactory. Having carefully considered the correspondence during those procedures, the Tribunal did not accept that was the case. It was clear that the Executive had raised specific concerns and also advised the Level 2 provider to seek compliance advice from the PhonepayPlus Industry Service team on the Service more generally, which it had not done. Further, the Tribunal noted that the Level 2 provider had twice told the Executive that it was no longer promoting the relevant element of the Service, which had led the Executive to believe that the matter had been resolved, yet later information had come to light to suggest that the promotion had resumed.

The Tribunal noted that various promotions for the Service had been provided by the Level 2 provider during the investigation, which contained varying amounts of information about the nature of the Service. For example, some promotions simply stated “£3 per text + £1.50/week subscription” and another stated “...You will also be subscribed to TV Babes adult video subscription for £1.50/ week...”. The Tribunal concluded that although the promotions referred to a subscription service, due to the unusual Service mechanic that required consumers who opted-in to one service to subscribe to another, it was imperative that consumers were fully and clearly informed about the nature of the Service before purchasing. The Tribunal concluded that the descriptions on all the promotions were not sufficiently clear and accordingly, consumers had not been provided with all information likely to influence their decision to purchase.

For the reasons detailed by the Executive, the Tribunal found that the Level 2 provider had breached rule 2.2.1 of the Code.

### **Decision: UPHELD**

#### **ALLEGED BREACH 2**

##### **Rule 2.3.3**

“Consumers must not be charged for premium rate services without their consent. Level 2 providers must be able to provide evidence which establishes that consent”

1. The Executive asserted that the Level 2 provider had acted in breach of rule 2.3.3 of the Code as the Level 2 provider had not provided robustly verifiable evidence that consumers that engaged with the Service through the PIN entry route consented to be charged.





### Guidance

The Executive relied on the content of PhonepayPlus Guidance on “Privacy and Consent to Charge” (the “**Guidance**”). The Guidance states:

#### Paragraph 1.4

“...it is essential that providers can provide robust evidence for each and every premium rate charge.”

#### Paragraph 2.1

“Robust verification of consent to charge means that the right of the provider to generate a charge to the consumer’s communication bill is properly verifiable...By ‘properly verifiable’, we mean a clear audit trail that categorically cannot have been interfered with since the record...was created.”

#### Paragraph 2.9

“It is more difficult to verify where a charge is generated by a consumer browsing the mobile web, or by using software downloaded to their device. In these circumstances, where the consumer may only have to click on an icon to accept a charge, the MNO has no record of an agreement to purchase, and so robust verification is not possible through an MNO record alone.”

#### Paragraph 2.10

“In both of the instances set out above, we would expect providers to be able to robustly verify consent to charge...Factors which can contribute to robustness are:

- An opt-in is PIN-protected (e.g. the consumer must enter their number to receive a unique PIN to their phone, which is then re-entered into a website);
- A record is taken of the opt-in, and data is time-stamped in an appropriately secure web format (e.g. https or VPN);
- Records are taken and maintained by a third-party company which does not derive income from any PRS. We may consider representations that allow a third-party company which receives no direct share of PRS revenue from the transaction, but does make revenue from other PRS, to take and maintain records. It will have to be proven to PhonepayPlus’ satisfaction that these records cannot be created without consumer involvement, or tampered with in any way, once created;
- PhonepayPlus is provided with raw opt-in data (i.e. access to records, not an Excel sheet of records which have been transcribed), and real-time access to this opt-in data upon request. This may take the form of giving PhonepayPlus password-protected access to a system of opt-in records;
- Any other evidence which demonstrates that the opt-in cannot be interfered with”

#### Paragraph 2.13

“Some charges, or opt-ins to marketing, are generated once consumers click on a mobile internet site – often to view an image or a page. Consent to receive a charge, or opt in to marketing, must be subject to robust verification, as set out above...”

### Complaints

The Executive relied on the content of the complainants' accounts. Specifically, the Executive noted the following complaints from consumers who had engaged with the Service through the PIN entry route:

“Consumer saying he has had no messages on his phone  
consumer saying he has never used adult services before  
consumer did say that he has been getting messages from loan companies  
consumer saying he has had the mobile number for over 15 years and this has never happened before  
Consumer saying he does travel to France a lot  
Consumer saying he turn roaming off his phone  
consumer could not give me much info”

“Consumer has been charged £1.50 for a text that he has not asked for, has not subscribed to anything, does not know what service is, consumer wants this stopped”

As set out in the “Background” section, the Service operated for a time using a PIN entry route. The Level 2 provider set out the journey for a consumer that had opted in via this route of entry:

1. A consumer entered a mobile number online;
2. A PIN was issued to the consumer's handset; and
3. A consumer entered the PIN into the webpage to initiate a subscription.

During the investigation, the Executive requested the following information in relation to this route of entry to the Service:

- An explanation regarding how this element of the Service operated and how it was promoted;
- An explanation regarding how this element formed part of the overall Service and who was responsible for it;
- Evidence to support any explanations provided, which should have included (a) copies of any further promotional material for this route of entry to the Service and (b) an explanation of how the Level 2 provider ensured it had robust consent to charge evidence for this route of entry to the Service, together with examples of such evidence.

The Level 2 provider responded and stated:

“The Pin Entry route as referred to in the spreadsheet (blue section) – is something we trialed for a couple of months but removed it nearly three months ago once we determined that the process was not satisfactory, due to our own due diligence and the feedback we were receiving from new customers. In this circumstance we had purchased web traffic but once we had received more than the usual weekly few CS calls we knew it wasn't clear to the consumer, albeit clearly stated in the T&C's [sic].”

The spreadsheet to which the Level 2 provider referred contained a sample of 18 complaints setting out discrepancies between the Level 1 provider and Level 2 provider's



message logs. The Level 2 provider highlighted three complaints on the spreadsheet which it stated had subscribed to the Service through the PIN entry route.

The Executive noted that the Level 2 provider had not submitted evidence of the complainants' consent to be charged as requested. Therefore, the Executive again requested copies of promotional material for the PIN entry route and evidence of consent to charge for the three complainants who had entered the Service via this route. In response, the Level 2 provider submitted a screenshot of the promotion viewed by consumers that had opted-in via the PIN entry route (**Appendix C**). In addition, the Level 2 provider supplied data for each complainant that included their MSISDN, the date and time of opt-in, the IP address and the user agent's details.

The Executive noted that during the investigation the Level 2 provider stated that the PIN entry route was only promoted on five occasions from August to December 2014 to trial new technology. The Level 2 provider stated that it had investigated the possibility of using a third party to enable it to subscribe consumers via this means of access. Before it invested time and money into the new technology it took the view that it should trial it first to see how it performed. On reflection, it had decided to withdraw this method in early December as it had decided it was not a viable option for promotion of the Service. Further, the Level 2 provider had stated that due to the short period of time that the promotions had been active, its customer service team had submitted a keyword and shortcode in the usual manner to PhonepayPlus in response to requests for information, rather than providing the PIN entry details.

The Executive noted that the data regarding the complainants that had used the PIN entry route was not held by a third party, nor was it held in a way which meant it categorically could not have been tampered with since its creation, as the Level 2 provider had held the data internally.

The Executive noted that the Guidance makes it clear that all charges must be robustly verifiable. However, it appeared that the Level 2 provider had decided not to utilise third party robust verification whilst trialing the PIN entry route. Notwithstanding that the Guidance is not binding on providers, where a provider fails to follow Guidance there is an expectation that it will take equivalent alternative steps to ensure that it fulfils PhonepayPlus' expectations (and compliance with the Code). The Executive submitted that by the Level 2 provider's own admission, it had not implemented a robust method of verification for the PIN entry route. As a result, the Executive submitted that the Level 2 provider did not have sufficiently robust systems in place to provide evidence of consent to charge and accordingly, the Level 2 provider had acted in breach of rule 2.3.3 of the Code.

2. The Level 2 provider denied that a breach of rule 2.3.3 of the Code had occurred and it stated that it believed it had acted fairly towards consumers. As evidence of this it stated that it offered exceptional value for money at £1.50 per week (as many other providers charged as much as £16.50 per video), it ran a pre-approved promotional campaign that contained full pricing and Service information, consumers had the ability to stop the Service at any time and they received first class customer service. It stated that a request to charge had been received in each and every case and it had provided the Executive with robust evidence of consent to charge. Further, it stated that the evidence submitted to the Executive was always supplied with a clear audit trail, with an IP address and a date and time stamp which confirmed when the handset had been used.



The Level 2 provider acknowledged that in all but a small minority of cases, consumers' robust verifiable consent had been obtained and evidenced. In those small minority of cases (three of the complaints) consent had been received for the PIN entry route with a web stamp opt in. The Level 2 provider stated that although this route had failed to meet its own internal standards, and the Executive had now raised concerns about it, it submitted that it was clear that in all other respects the promotion was satisfactory. It stressed that it had ceased this method of access to the Service before it received any correspondence from the Executive raising this as a concern.

The Level 2 provider reiterated that over 98% of its consumers were satisfied with the further content offered by the Service on a weekly basis. Some consumers had texted "stop" immediately and others had continued as regular customers. It stated that the extremely small minority of consumers that stated they were not fully aware of the weekly element had been fully refunded.

The Level 2 provider explained that, as a small company, it did not wish to use "enhanced single click" technology or charge excessively for content, therefore it decided to experiment with various methods of obtaining loyal consumers. It had attempted to adapt its business to the rapidly growing area of web browser traffic but found it had not been able to receive the correct message flow. The Level 2 provider submitted that it had acted on guidance received by the Executive, co-operated with the Executive and endeavoured to provide a value for money service, with a transparent promotional and operational functionality.

In conclusion, the Level 2 provider asserted that the Executive's case in relation to a breach of rule 2.3.3 of the Code was:

- Disproportionate, as only three complainants were affected by this method of entry to the Service;
- Unreasonable, in view of its history of reacting immediately to any concerns about its services, voluntarily suspending its services each time until the concerns had been resolved and demonstrating a willingness to comply;
- Unfair, in the context of this case.

The Level 2 provider urged the Tribunal to take into account all the circumstances when applying the Code and particularly that the PIN entry route was a trial option, it operated for a short duration, with limited impact on consumers and when viewed in line with its "no quibble" refund policy it was of limited risk. In addition, the Level 2 provider stated that the Executive had relied on non-binding Guidance to establish a breach raised, which was unduly harsh. Further, it submitted that providers should be given an opportunity to comply, and given credit for the steps taken of their own accord. In its case, it had trialed the PIN entry route, decided it did not meet its basic standards, withdrew this method of entry to the Service and had been upfront with the Executive about it. Therefore, it submitted that it had acted both reasonably and responsibly. In the circumstances, it denied that it had breached rule 2.3.3 of the Code.

3. The Tribunal considered the Code, Guidance and all the evidence before it, including the Level 2 provider's written submissions.

The Tribunal noted that it appeared that the Level 2 provider had only utilised the PIN entry over a four month period and that it had ceased use of it once it had become aware of concerns. The Tribunal also considered the data provided by the Level 2 provider, which it



submitted had demonstrated consumers' consent to be charged, but the Tribunal noted that this data had not been held by an independent third party to ensure that the data categorically could not have been interfered with. The Tribunal did not accept that this evidence was sufficiently robust and properly verifiable. Therefore it was not satisfied that the Level 2 provider had provided evidence that established these consumers' consent.

In light of the complaints received by the Executive and as a result of the lack of robust evidence, the Tribunal was also satisfied that, on the balance of probabilities, consumers had been charged without their consent. The Tribunal found that the Level 2 provider had acted in breach of rule 2.3.3 of the Code.

### ALLEGED BREACH 2

#### Rule 2.2.5

"In the course of any promotion of a premium rate service, written or spoken or in any medium, the cost must be included before any purchase is made and must be prominent, clearly legible, visible and proximate to the premium rate telephone number, shortcode or other means of access to the service."

1. The Executive asserted that the Level 2 provider had acted in breach of rule 2.2.5 of the Code as promotions for the Service did not display pricing information prominently and proximately to the means of access to the Service.

The Executive relied on the content of PhonepayPlus Guidance on "Promotions and promotional material" (the "**Guidance**"). The Guidance states:

#### Paragraph 2.8

"Pricing information where consumers are unlikely to see it, or where it is hard to find, is unlikely to be judged as 'prominent', or 'proximate', by a PhonepayPlus Code Compliance Panel Tribunal ('PhonepayPlus Tribunal')."

#### Paragraph 2.10

"Lack of prominence, or proximity, most often takes place online (both web and mobile web), where the price is provided in small print elsewhere on the page from the call to action. We have sometimes seen pricing information in the middle of the terms and conditions of a service, promotion or product, rather than as clear and correct 'standalone' information; the price is sometimes provided separate from the page with the call to action, or lower down on the page in such a way as to make the consumer have to scroll down to see the price. Any of these practices are unlikely to be viewed as compliant with PhonepayPlus' Code of Practice by a PhonepayPlus Tribunal."

The Executive highlighted that it had previously raised a Track 1 procedure against the Level 2 provider on 6 August 2013. The Executive had viewed a promotion which stated:

"PayBy SMS for just £3

Text 067705 to 69979 now!

You will receive your PIN via SMS. You will be charged £3 to your mobile bill. Standard network charges may apply. You will also be subscribed to TV Babes adult video subscription service for £1.50/week opt out text STOP to 69500. Service run by Firsight Mobile 08444485440."



Lines four to six of the promotion were presented in smaller text than the top two lines. The Executive had informed the Level 2 provider that the pricing information was not sufficiently prominent as it was displayed within a paragraph of information. The Level 2 provider was provided with an example of best practice. On 7 August 2013 the Level 2 provider thanked the Executive for highlighting the concerns and it stated that if there were any future promotions it would ensure the specific wording provided by the Executive was used.

When complaints relating to the Service were initially received, the Executive sent individual requests for information to the Level 2 provider that requested amongst other information, the date the consumer first engaged with the Service and copies of relevant promotional material. For numerous complainants that had engaged with the Service after 7 August 2013, the Level 2 provider submitted a screenshot as an example of the promotional material seen by the complainants that contained wording in the same format as the promotion viewed by the Executive in August 2013 (**Appendix D**).

The Executive submitted that the pricing information on the webpage was not sufficiently prominent as it was displayed in the middle of a block of text, in a significantly smaller and less bold font than the means of access to the Service (the shortcode).

For this reason, the Executive submitted that the cost of the Service in this promotion was not clearly displayed as it is not sufficiently prominent in relation to the premium rate number (the means of access to the Service). Therefore, the Executive submitted that the Level 2 provider was in breach of rule 2.2.5 of the Code.

At the Tribunal hearing in response to questions from the Tribunal, the Executive confirmed that the promotion at **Appendix D** had been supplied by the Level 2 provider four times out of a sample of eighteen complainants in response to requests for information. This had been sent to the Executive using the Level 2 provider's responsible person/primary contact's email address rather than a generic email address for the Level 2 provider.

2. The Level 2 provider denied that it was in breach of rule 2.2.5 of the Code and stated that all of the required information was contained in the promotion for the Service.

The Level 2 provider submitted that the pricing information was presented in the right hand corner and in a box that covered 25% of the overall space of the promotion, which was therefore proximate to the means of access to the Service. In addition, it submitted that the pricing information was not in a smaller text along the bottom of the promotion therefore, it understood that it was in accordance with the requirements set out in the Code.

In relation to the promotion referred to by the Executive (**Appendix D**), the Level 2 provider stated that this screenshot was sent to the Executive as an example of its promotional material, when in fact it was only an example of a pre-August 2013 promotion. It accepted that it had submitted this promotional material to the Executive in response to an initial request for information for several complainants and it had always endeavoured to supply the promotion that the complainant would have responded to, not the promotion that was operating at the time of the request. It believed that the wrong promotion had been submitted to the Executive, and it could only assume that a new member of its Customer service team had responded to the request for information and had supplied the wrong promotion. It could not now check the position given the time that had elapsed. The Level 2 provider referred the Tribunal to its amended promotion that it stated incorporated the changes suggested by the Executive (**Appendix A**).



The Level 2 provider stated that many consumers, having purchased the initial video, sent “stop” immediately, which it submitted suggested that the information was being read by most consumers who purchased the Service.

The Level 2 provider referred to another case relating to another Level 2 provider that had been dealt with through the Track 1 procedure. It stated that the promotions in that case did not contain any pricing information and the Executive had not taken any action.

The Level 2 provider quoted the relevant Guidance and outlined under each paragraph how it had met the requirements stated.

In conclusion, the Level 2 provider stated that the Executive’s case was:

- Disproportionate, in light of all the information the Level 2 provider had supplied;
- Unreasonable, in view of its history of reacting immediately to any concerns about its services, voluntarily suspending services each time until the Executive’s concerns had been resolved and demonstrating an obvious willingness to comply. Most significantly, it submitted that a member of the CRT had fully reviewed the Service in 2014 and approved this version of the promotion that the Executive now relied on;
- Unfair, based on the Executive’s presentation of the case in the breach letter, as the Executive had produced snippets and excerpts from historic cases and drawn conclusions which were not supported by the full correspondence and the context of the case.

The Level 2 provider submitted that the Executive’s case was based entirely on correspondence exchanged in connection with a screenshot of a promotion supplied to the CRT in November 2013. The Level 2 provider stated that the Executive’s case was that this single example demonstrated a breach of rule 2.2.5 of the Code, yet the Level 2 provider was confident that this screenshot pre-dated the changes made as a result of its contact made with the CRT in November 2013. Given the time that had now passed (two years) it stated that it was significantly disadvantaged by its inability to verify the cause of the confusion. Notwithstanding this, it submitted that this issue had been fully resolved and concluded, and all its promotions reflected the agreed changes. In the circumstances of the case, it denied that it had breached rule 2.2.5 of the Code.

3. The Tribunal considered the Code, Guidance and all the evidence before it, including the Level 2 provider’s written response.

The Tribunal considered the Level 2 provider’s submissions regarding the provision of promotional material in response to the Executive’s requests for information in relation to complaints after August 2013. It noted that the Level 2 provider had asserted that the promotional material relied on by the Executive was not the current version of the promotion, as it had been amended following recommendations given in the Track 1 procedure in August 2013. However, the Tribunal considered that this promotion had been supplied by the Level 2 provider as the promotional material viewed by at least four complainants since August 2013 (twice on 6 October 2014, on 11 December 2014 and on 18 December 2014) and each time it had been provided by the primary contact and responsible person for the Level 2 provider. The Tribunal considered the material provided on each such occasion. The Tribunal did not accept that the promotion was not in use after August 2013.



The Tribunal noted that the Level 2 provider had referred to another Level 2 provider's case in its response. The Tribunal had insufficient information on the facts and procedural history of that case to conclude that the case was relevant and commented that it was not helpful to refer to an unrelated case.

Further having considered the content of the promotion, the Tribunal found that the pricing information was not prominent and proximate to the premium rate shortcode (means of access to the Service), as it was contained four lines into a block of text that was smaller than the premium rate number. In light of this, the Tribunal concluded that the Level 2 provider had breached rule 2.2.5 of the Code.

### Decision: UPHELD

#### ALLEGED BREACH 4

##### Rule 2.2.1(a)

"Promotional material must contain the name (or brand if part of the name), and the non-premium rate UK contact telephone number of the Level 2 provider of the relevant premium rate service except where otherwise obvious."

1. The Executive submitted that the Level 2 provider was in breach of rule 2.2.1(a) of the Code as promotional material for the Service did not contain the identity of the Level 2 provider.

The Executive relied on the content of PhonepayPlus Guidance on "Promotions and promotional material" (the "**Guidance**"). The Guidance states:

#### Paragraph 1.3

"...However, as a basic starting point, the following information is considered key to a consumer's decision to purchase any PRS, and so should be included in promotional mechanics for any PRS:

- The total cost of the service, including price per minute and/or text, and any initial charges (such as a joining fee);
- The name and customer service contact number of the provider (which should be the full name, or any abbreviation that could be found on the first page of an internet search engine);
- Whether the service bills by subscription – i.e. carries a repeat charge which ends only upon termination by the consumer."

The Executive highlighted that it had raised a Track 1 procedure under paragraph 4.3 of the Code against the Level 2 provider in April 2013. The Executive had advised the Level 2 provider to ensure that its identity was used on promotions for the Service. It had stated that it understood that Firstlight Mobile was a trading name of the Level 2 provider and this was not acceptable.

In January 2015, the Level 2 provider provided copies of promotions for the Service in response to the Executive's request for "ALL promotional material used for this Service" (**Appendix A and C**). The Executive noted that additional promotional material had also been provided in response to the Executive's initial requests for information (**Appendix B, C, and D**).





In relation to all the promotional material supplied, the Executive noted that the Level 2 provider's identity was not included. Further, it noted that promotional material for the Service referred to the Level 2 provider's trading name "Firstlight Mobile" or "1stlight". Accordingly the Executive submitted that the Level 2 provider had acted in breach of rule 2.2.1(a) of the Code, as promotional material for the Service had not contained the name of the Level 2 provider.

2. The Level 2 provider denied that a breach of rule 2.2.1 (a) of the Code had occurred and stated that it had used the name "Firstlight Mobile" on its promotions, as Firstlight Mobile was an independent customer service bureau who handled its customer queries. By including that name with the non-premium rate contact number, it ensured that consumers knew that their query would be handled by the correct organisation.

The Level 2 provider accepted that the Service was operated by it, as it was the content provider and the Service was its concept. However, it had not wanted to confuse consumers with its core business of publishing content, therefore it had chosen to use a trading name for clarity and improved customer service. Firstlight Mobile and its customer service contact number could be found on the first page of an internet search engine whereas the Level 2 provider's name could not.

The Level 2 provider stated that its customer service record was exemplary, as it used live operators and had a company policy to refund any dissatisfied customers on a 'no quibble' basis. Therefore, the Level 2 provider questioned whether this matter warranted an investigation since in its contact with the Executive, it stated that this issue had not been brought up as a concern.

In conclusion, the Level 2 provider denied that it was in breach of rule 2.2.1(a) of the Code. It submitted that the Executive has been heavy handed and acted without reference to all the facts concerning previous advice and assurances. The Level 2 provider reiterated that the Service had been reviewed in November 2013 and June 2014 and on neither occasion was it instructed to make this change. It described the Executive as having, "a complete turnaround" in raising formal proceedings when it stated that a simple direction would have sufficed. The Level 2 provider also reiterated its earlier submissions that it believed this case should have been dealt with through the Track 1 procedure for the reasons outlined under the breaches of rule 2.2.1, 2.3.3 and 2.2.5.

3. The Tribunal considered the Code and all the evidence before it, including the Level 2 provider's written submissions.

The Tribunal noted that all the promotions for the Service failed to contain the correct identity of the Level 2 provider. The Code and Guidance was clear that the Level 2 provider's identity was required, and further, this had repeatedly been made clear in previous Track 1 procedures against the Level 2 provider. Accordingly, the Tribunal upheld a breach of rule 2.2.1 (a) of the Code.

## SANCTIONS

### Initial overall assessment

The Tribunal's initial assessment of the breaches of the Code was as follows:

### Rule 2.2.1 – Provision of information likely to influence the decision to purchase



The initial assessment of rule 2.2.1 of the Code was **significant**. In determining the initial assessment for this breach of the Code the Tribunal applied the following criteria:

- The Service is likely to have had a material impact, directly or indirectly, on consumers and show potential for substantial harm to consumers; and
- The Service had been promoted in such a way as to impair the consumer's ability to make an informed transactional decision.

### Rule 2.3.3 – Consent to charge

The initial assessment of rule 2.3.3 of the Code was **serious**. In determining the initial assessment for this breach of the Code the Tribunal applied the following criterion:

- The Level 2 provider charged some consumers without obtaining robustly verifiable evidence of consent to charge.

### Rule 2.2.5 – Pricing prominence

The initial assessment of rule 2.2.5 of the Code was **serious**. In determining the initial assessment for this breach of the Code the Tribunal applied the following criterion:

- Pricing information is not sufficiently prominent and proximate to the means of access to the Service.

### Rule 2.2.1(a) – Provision of the Level 2 provider's identity

The initial assessment of rule 2.2.1(a) of the Code was **significant**. In determining the initial assessment for this breach of the Code the Tribunal applied the following criterion:

- Promotions for the Service failed to supply adequate details relating to the Level 2 provider's identity.

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

### Final overall assessment

In determining the final overall assessment for the case, the Tribunal found two aggravating factors.

- The Level 2 provider had not provided the Executive with all information that it was directed to provide. In particular, the failure to provide all contracts with the Level 1 providers regarding the provision of the Service had hindered the Executive and the Tribunal's ability to understand the value chain. Further, the Level 2 provider had not provided full revenue information for the Service.
- The Level 2 provider's services had been dealt with a number of times through the Track 1 procedure during which it had been alerted to various concerns which were now the subject of the breaches that have been upheld. The Tribunal noted that the Level 2 provider had informed the Executive that the Service or certain elements of it were no longer being promoted, only for the Level 2 provider to later recommence promotions in a similar manner.



The Tribunal did not find any mitigating factors. However, the Tribunal noted that the Level 2 provider had stated that it had refunded the affected complainants, although it had not provided any evidence of the refunds having been made.

The Level 2 provider's evidenced revenue in relation to the Service was in the range of Band 3 (£250,000 - £499,999). The Tribunal noted that there was a discrepancy between the Level 1 and Level 2 provider's revenue figures regarding shortcode 69500 but having considered the Level 2 provider's correspondence regarding the revenue figures, it found that the Level 2 provider had not provided the gross figure. Accordingly, the Tribunal referred to the figures provided by the Level 1 provider. The Tribunal noted that Level 2 provider had not provided any revenue information for shortcode 79900, nor any revenue information pre-dating July 2014. The Tribunal noted that the Level 2 provider stated that it was unable to obtain the information as the Level 1 provider Velti DR Limited was no longer operating and it was grossly unfair to expect it to obtain such historical information. The Tribunal found that the explanation given by the Level 2 provider was not satisfactory and failing to provide information when directed to do so was a serious matter. The Tribunal reserved its position regarding the imposition of further sanctions upon a review should further information come to light regarding revenue.

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

### Sanctions imposed

Having regard to all the circumstances of the case, the Tribunal decided to impose the following sanctions:

- a formal reprimand;
- a fine of £100,000;
- a requirement that the Level 2 provider seek compliance advice for the Service within two weeks of the date of publication of this decision, and for any other similar services that the Level 2 provider operates in the future, within two weeks from the commencement date of those services, and thereafter to implement that advice within two weeks (subject to any extension of time agreed with PhonepayPlus) to the satisfaction of PhonepayPlus; and
- a requirement that the Level 2 provider must refund all consumers who claim a refund, for the full amount spent by them on the Service, within 28 days of their claim, save where there is good cause to believe that such claims are not valid, and provide evidence to PhonepayPlus that such refunds have been made.

**Administrative charge recommendation:**

**100%**

Appendices

Appendix A – A copy of a promotion for the Service:

**BSX** - Sexy, Naked Babestation Girls and Pornstars, HD Movies

MEMBER FEATURES 100% LIVE STREAMS GET YOUR TV PIN BSX LIVE BABESTATION CAMS MEMBERS LOGIN SIGN UP JOIN

**Unlock BSX Now**

Get access to BSX tonight for only £3

**Pay by SMS**

**Step 1**  
Text **JYFVCF** to **69979**.  
£3 per text + £1.50/week subscription  
Standard network charges apply \*

**Step 2**  
When you have been charged, you will receive your pin number by text.

**Step 3**  
Enter your pin number into your TV using your remote control.

**Pay by Phone**

**Step 1**  
Call **0982 873 6969** from your landline  
£1.53per min + network extras \*  
Or **69979** from your mobile.  
£1.50per min \*

**Step 2**  
Follow the instructions on the phone. Enter your unlock code **JYFVCF** using your telephone keypad when prompted.

**Step 3**  
At the end of the call, you will be read your pin number. Enter your pin number into your TV using your remote control.

**Pay by Credit Card**

**Step 1**  
Call our automated credit card line on **0843 208 1016**.  
Standard network charges apply

**Step 2**  
Follow the instructions on the call. You will be prompted to enter your unlock code **JYFVCF** and your credit card details using the telephone keypad.

**Step 3**  
At the end of the call, you will be read your pin number. Enter your pin number into your TV using your remote control.

Pay with Paypal Credit/Debit Online

\* Over 18s only. Calls to 09828736969 premium rate number cost £1.53 for the 1st minute then £1.53 per minute thereafter + network extras. Calls to 69979 cost £1.50 per minute. SMS to 69979 charged at £3 per message received. Provided by Cellcast. Live call services by SQ1Comms. Full terms & conditions can be received by mailing an SAE to BSX PO BOX 7566 Milton Keynes MK11 9GD. Helpline 03333350299. 69500 SMS TV Babes Subscription provided by Firstlight Mobile 02031891203 opt out text STOP to 69500. By connecting with any of our services you agree that we and selected third parties may send you promotional messages. If you do not wish to receive these messages text STOP to 69979. Billpayers permission required. Calls may appear on your bill.

Terms & Conditions - Privacy Policy

All models featured on this site were 18 years old or older at time of photography.  
18 U.S.C. 2257 Record-Keeping Requirements Compliance Statement  
Terms | Customer Support | Billing Support: Epoch.com  
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Appendix B – A copy of a promotion for the Service:

**NYWHERE.XXX** My Account My Collection My Messages My Pornstars Buy Tickets Log Out

News Feed Pornstars Categories Help

**Buy Your Tickets Using Credit/Debit Card** What is a Ticket? Specials

select a studio

Random Movies  
Boxset Movies  
Over 10 Scenes  
Over 5 Hours  
Popular Porn Se  
British  
Gay Mode

twitter

Top Porn Mov

**1 ticket** for £5.99  
**3 tickets** for £14.99  
**6 tickets** for £24.99  
**12 tickets** for £39.99  
**24 tickets** for £59.99

£5.00 per ticket Earn 10 loyalty points  
£4.16 per ticket Earn 20 loyalty points  
£3.33 per ticket Earn 35 loyalty points  
£2.50 per ticket Earn 50 loyalty points

**To pay with mobile:**

1. Text **MOVIE** to **79050**  
Your code will arrive in an SMS message and be billed £5 + £1.50/week subscription

2. Enter code from SMS below

3. Click the **ENTER** button

Enter the SMS code:  
 **ENTER**

\* Having problems? Make sure your phone is adult verified and you have enough credit. Customer Services: 0333 313 2280  
Users must be 18 years or older and have the bill payer's permission. 69500 SMS TV Babes Subscription provided by Firstlight Mobile 02031891203 opt out text STOP to 69500. By texting us we reserve the right to send you information on similar products or services which we think may be of interest to you. Service provided by Saristar, PO Box 306, Rainham, RM13 8XD. Customer Services 0333 313 2281



Appendix C – A copy of a promotion for the Service for the PIN entry route into the Service:

**NYWHERE.XXX** My Account My Collection My Messages My Pornstars Buy Tickets Log Out  
 News Feed Pornstars Categories Help

**Buy Your Tickets Using Credit/Debit Card** What is a Ticket?

<b>1 ticket</b> for £5.99	<b>3 tickets</b> for £14.99	<b>6 tickets</b> for £24.99	<b>12 tickets</b> for £39.99	<b>24 tickets</b> for £59.99
	£5.00 per ticket Earn 10 loyalty points	£4.16 per ticket Earn 20 loyalty points	£3.33 per ticket Earn 35 loyalty points	£2.50 per ticket Earn 50 loyalty points

**To pay with mobile:**

1. Enter your mobile number below
2. Click the SEND button  
Your code will arrive in a SMS message
3. Enter code from SMS below  
You will be billed £5 + £1.50/week subscription
4. Click the ENTER button

Enter the mobile number:  **SEND**

Enter the SMS code:  **ENTER**

\* Having problems? Make sure your phone is adult verified and you have enough credit. Customer Services: 0333 313 2281  
 Users must be 18 or older and have the bill payer's permission. 69500 SMS TV Babes Subscription provided by Firstlight Mobile 0203 1891203 opt out text STOP to 69500. By texting us we reserve the right to send you information on similar products or services which we think may be of interest to you. Service provided by Santitas, PO Box 306, Rainham, RM13 9XD. Customer Services 0333 313 2281

**Specials**  
 select a studio  
 Random Movies  
 Boxset Movies  
 Over 10 Scenes  
 Over 5 Hours  
 Popular Porn Searches  
 British  
 Gay Mode

**Top Porn Movies**  
 1. Stepdad Punishment

Appendix D – A copy of a promotion for the Service:

Babestation X - Freeview Channel 174 every evening 11.30pm-4.45am

**BABESTATION CAMS** Watch Babestation Cams now

Chat live with top babes  
 Intimate one-on-one sessions

HOME WATCH ONLINE WATCH ON TV HAVE AN AFFAIR. MEMBERS LOGIN INSTANT ACCESS JOIN NOW

Babestation X LIVE 11.30pm - 4:45am each and every night!

**Your Unlock Code: 067705**  
 Enter Your Pin:  
  
 Submit

**Get Tonight's Pin Now:**

**Pay By SMS for just £3**  
**Text 067705 to 69979 now!**  
 You will receive your PIN via SMS. You will be charged £3 to your mobile bill. Standard network charges may apply. You will also be subscribed to TV Babes adult video subscription for £1.50/week opt out text STOP to 69500. Service run by Firstlight Mobile 08444485440.

**Pay By Credit Card for just £3**  
**Enter your email address:**  
 **Go to Secure Payment**

You must enter a valid email address. Discreet billing. We may send you special offers and promotions via email.

This is a live stream of our TV channel, as seen on Freeview Channel 174. This service is not included in your Babestation X online membership. For customer support while using this service, please contact us on 0843 289 3588 or email [customerservice@babestationx.tv](mailto:customerservice@babestationx.tv).

18+ only. Calls to 09829300096 premium rate number cost £1.53 per minute + network extras. If onscreen presenters are already speaking, callers have option to listen in on conversation or redirect to a live 121 offscreen operator. Billpayers permission required. Calls may appear on your bill. We may send you free promotional messages. Live calls recorded in compliance with PhonepayPlus regulations. Live call services by SQ1Comms. 69979 SMS provided by Cellicast UK LTD. 69500 SMS TV Babes Subscription provided by Firstlight Mobile 08444485440.

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