

Case Reference	R/E/I/060
Title	Code Wireless' Charging for Unsolicited Error Messages
Case Opened	18 April 2007
Case Closed	28 May 2007
Complainant	IDA initiated enforcement proceeding
Respondent	Code Wireless Pte Ltd (" Code Wireless ")
Case Summary	<p>IDA received a complaint from an End User who stated that he had been wrongfully charged a fee by Code Wireless. The End User informed IDA that he had intended to subscribe to a different service, but had mistakenly sent an SMS message to Code Wireless' shortcode, which was used for the operation of Code Wireless' SMS chat service called SingFriend. The End User subsequently received an SMS message from Code Wireless' system, explaining that the original SMS message sent in by him was not a recognised keyword, and further explaining the correct method to use to subscribe to Code Wireless' SMS chat service. He was charged \$0.50 for this Unsolicited Error Message from Code Wireless.</p>
IDA's Determination	<p>Based on IDA's investigation, IDA determined that Code Wireless had breached Section 3.3.3, read with Section 3.3, of the Telecoms Competition Code ("Code") which states that:</p> <p><i>"[t]he End User Service Agreement must provide that the End User will not be required to pay for any telecommunication service that the End User did not consent to receiving" and "IDA will treat a Licensee's wilful, reckless or repeated failure to fulfil these obligations as a contravention of this Code"</i></p> <p>In its service application, Code Wireless had explicitly represented to IDA that it would be implementing a specific subscription keyword for registration to its SMS chat service. The purpose of such a keyword was precisely to ensure that End Users would not end up being wrongfully charged for unsolicited services. Hence, it cannot be said that Code Wireless was unaware of the potential risk that an End User could send in an incorrect/incomplete SMS message to Code Wireless' shortcode and subsequently be charged for a service that the End User had not explicitly requested for.</p> <p>As such, by failing to ensure that its system did not charge for Unsolicited Error Messages, Code Wireless had acted recklessly and had overlooked the importance of preventing End Users from being charged for sending in</p>

incorrect/incomplete SMS messages to their shortcode.

Based on the above, IDA concluded that Code Wireless had breached Section 3.3.3, read with Section 3.3, of the Code. IDA considered the following mitigating factors when determining the appropriate enforcement measure to be imposed on Code Wireless:

(a) This is the first time Code Wireless has breached the Code requirement;

(b) Code Wireless had only received one complaint on this issue; and

(c) Code Wireless had, upon receipt of the complaint and after IDA's investigation, quickly rectified its system to prevent further breaches.

Under these premises, IDA decided to issue a warning to Code Wireless for its contravention of the Code. IDA also reminded Code Wireless that more severe enforcement measures would be taken against Code Wireless should the contravention be repeated in the future.