

Case Reference	R/E/I/073
Title	Code Wireless's Charging for Unsolicited Services
Case Opened	1 May 2008
Case Closed	10 December 2008
Complainant	IDA-initiated enforcement proceedings
Respondent	Code Wireless Pte Ltd (" <b>Code Wireless</b> ")
Case Summary	<p>IDA received a complaint from a member of the public about being charged for a premium rate service ("<b>PRS</b>") that he had not subscribed for. The PRS was offered by Code Wireless.</p> <p>IDA established that the complainant's mobile number was a recycled number – the mobile number had been terminated by a previous owner, placed under quarantine for 12 months and then subsequently reassigned to the complainant. The Code Wireless PRS was subscribed by the previous owner of this recycled mobile number, who did not unsubscribe from the PRS prior to terminating the mobile line.</p> <p>Through IDA's investigations, it was established that the mobile operator had instituted a system to inform Code Wireless, on a regular basis, of mobile numbers that have been terminated. To prevent the erroneous billing of recycled numbers, Code Wireless's standard practice was to remove such terminated numbers from its database and cease the sending of chargeable messages to these numbers. However, an oversight on Code Wireless's part resulted in the failure to remove this particular number from its database. Therefore, when the mobile number was reassigned to the complainant, the complainant was erroneously billed for the PRS.</p> <p>Upon further investigation by IDA, it was also established that, 8 months before lodging his complaint with IDA, the complainant had already disputed the charges for the same PRS through his mobile operator. The mobile operator had informed Code Wireless of the dispute over the charges.</p> <p>Though Code Wireless had attempted to contact the complainant to investigate the dispute, it was not successful in reaching the complainant despite a number of attempts. Code Wireless did not seek assistance from the mobile operator or undertake other measures to try to contact the complainant. Despite not completing a full investigation into the dispute, Code Wireless did not cease the collection of the disputed charges from the complainant and also continued to charge the complainant for the PRS from October 2007 to May 2008.</p>

<p>IDA's Determination</p>	<p>Based on the facts of the case, it was determined that Code Wireless had breached Section 2.12 of the PRS Code, which states that: <i>“A premium rate service provider shall not charge any person for any service that the person did not purchase or subscribe for”</i> and <i>“[f]or the avoidance of doubt, a person shall be regarded as having been charged for a service where he is presented with a bill for the service, regardless of whether or not payment is actually collected from him.”</i></p> <p>IDA considered the following aggravating factors when determining the appropriate enforcement action to be imposed on Code Wireless for its breach of Section 2.12 of the PRS Code:</p> <ul style="list-style-type: none"> <li>(a) The mobile operator had informed Code Wireless that the affected number was terminated in November 2006. However Code Wireless did not ensure the removal of the affected number from its database, resulting in the complainant being erroneously billed for PRS he did not subscribe for; and</li> <li>(b) Despite being alerted to the May 2008 complaint to IDA, Code Wireless did not provide a full refund to the complainant promptly and instead adopted a lackadaisical approach of awaiting instructions from the mobile operator.</li> </ul> <p>However, IDA also found the following mitigating factors with respect to Code Wireless’s breach of Section 2.12 of the PRS Code:</p> <ul style="list-style-type: none"> <li>(a) Only one end user had lodged a complaint against Code Wireless on the matter;</li> <li>(b) It was unlikely that Code Wireless had set out to profit from the billing error, albeit it was negligent in its duty to ensure that end users are not charged for unsolicited services; and</li> <li>(c) Code Wireless had cooperated with IDA in the process of the investigation and provided information requested by IDA in due time.</li> </ul> <p>Section 2.13.1 of the PRS Code states that <i>“A premium rate service provider shall not collect payment, and shall ensure that the relevant billing network operator does not collect payment, from any person who is charged for a premium rate service where that person notifies the premium rate service provider that he reasonably believes the charge to be incorrect and where there appears to be reasonable grounds for disputing the charge.”</i> Section 2.13.2 goes on to specify that: <i>“In all cases where a reasonably disputed charge is notified to a premium rate service provider by the person charged, whether directly or through its billing network operator, the premium rate service provider must take all necessary action to carry out a full and complete investigation at its own expense on the disputed charge...”</i></p>
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	<p>For failing to cease the collection of charges from the complainant even though it had not completed a full investigation into the earlier dispute on the charges, IDA determined that Code Wireless had also breached Section 2.13 of the PRS Code. IDA found no aggravating or mitigating factors with respect to Code Wireless's breach of Section 2.13 of the PRS Code.</p> <p>Taking these factors into consideration, IDA imposed the following financial penalties on Code Wireless:</p> <ul style="list-style-type: none"><li>(a) <b>A financial penalty of \$5,000</b> for breach of Section 2.12 of the PRS Code; and</li><li>(b) <b>A financial penalty of \$1,000</b> for breach of Section 2.13 of the PRS Code.</li></ul>
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