

Case Reference	R/E/I/061
Title	Efusion's Charging for Incorrect Subscription Keywords
Case Opened	25 September 2007
Case Closed	14 January 2008
Complainant	IDA initiated enforcement proceeding
Respondent	Efusion Pte Ltd (" Efusion ")
Case Summary	<p>In November 2006, IDA discovered that Efusion had charged End Users for any SMS messages sent to a chat service (operated via shortcode 77077), instead of implementing a subscription keyword command for that service. IDA had required Efusion to rectify this, and to ensure that Efusion's service is not activated and that End Users are not charged before receipt of SMS messages containing the subscription keyword command. Efusion had committed to doing so by February 2007.</p> <p>In September 2007, IDA received a complaint from an End User that Efusion had been sending out unsolicited SMS advertisements for its SMS chat service via shortcode 77277, and that any SMS messages sent to shortcode 77277 would be charged at \$0.88, regardless of whether or not that SMS messages contained the correct subscription keyword for the service.</p> <p>IDA's investigation revealed that, from February to September 2007, some 647 End Users had been charged for sending in erroneous SMS messages (i.e. those not containing the correct subscription keyword) to shortcode 77277. During the same period, Efusion had also received a total of 83 complaints/enquires from those end users who had been charged, with 18 complaints/enquiries coming in the month of February 2007 alone.</p>
IDA's Determination	<p>Based on IDA's investigation, IDA determined that Efusion 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 November 2006, IDA had required Efusion to ensure that its chat services are not activated, and that End User are not charged before Efusion receives SMS messages containing the correct subscription keyword from those End Users. Efusion had committed to doing so by</p>

February 2007 and was therefore fully aware of IDA's requirements in relation to the provision of its chat services.

That, between February and September 2007, End Users were wrongfully charged for messages which do not contain the subscription keyword shows that Efusion had wilfully, recklessly and repeatedly persisted in imposing such unsolicited charges on End Users without regard for IDA's regulatory requirements.

Based on the above, IDA concluded that Efusion has breached Section 3.3.3, read with Section 3.3, of the Code. In determining the appropriate enforcement measure to be imposed on Efusion, IDA had considered that Efusion's breach of the Code had continued from the period of February to September 2007, resulting in 647 End Users being erroneously charged, despite the fact that Efusion:

- (a) had already been required by IDA to remedy the exact same breach in November 2006, and had committed to doing so by February 2007; and
- (b) received 83 complaints/enquiries on the issue during the 8 month period stretching from February 2007 to September 2007, giving it ample time to notice and remedy its breach.

Under these premises, IDA imposed a financial penalty of **S\$23,000** on Efusion for breaching Section 3.3.3 (read with Section 3.3) of the Code.