

Case Reference	R/E/I/077
Title	I-Pop's Multiple Breaches of the Premium Rate Services Code (" PRS Code ")
Case Opened	19 August 2009
Case Closed	21 December 2009
Complainant	IDA initiated enforcement proceeding
Respondent	I-Pop Networks Pte Ltd (" I-Pop ")
Case Summary	<p>Arising from an end user's complaint against I-Pop received by IDA in August 2009, IDA discovered that I-Pop had sent out SMS advertising messages (the "SMS Adverts") to some of its existing subscribers, advertising another of its subscription-based premium rate services ("PRS"). The content of the SMS Adverts is as follows:</p> <p><i>"Cool!Your brainscore is 110, same as Rihanna! Now you can get more funny ringtone, sms BABY to 79000 now!"</i></p> <p>The SMS Adverts did not comply with the advertising requirements under the PRS Code as, while they contained an invitation to subscribe for I-Pop's PRS (by sending "<i>BABY</i>" to shortcode 79000), they did not otherwise contain any other information on the relevant prices, terms and conditions of the service.</p> <p>Furthermore, during IDA's investigations into the complaint, I-Pop had supplied IDA with inaccurate information, material to IDA's investigations, on at least two occasions during the course of the investigations.</p> <p>In I-Pop's defence, I-Pop informed IDA that Sam Media, a foreign company, was the operator of the PRS, which was provided by I-Pop in Singapore.</p>
IDA's Determination	<p>An IDA licensee who facilitates the provision of a PRS by a non-licensee cannot seek to evade its obligations under the PRS Code by casting the responsibility for compliance on the non-licensee.</p> <p>The PRS Code clearly provides that a:</p> <p><i>"premium rate service provider" means a licensee that engages in the provision of a premium rate service. For the avoidance of doubt, -...</i></p> <p><i>(c) where a licensee, such as an aggregator, facilitates the provision of a premium rate service that is controlled, managed or operated by any other party who is not a</i></p>

licensee, the facilitating licensee shall be treated as the premium rate service provider of that service and shall be responsible for complying with this Code notwithstanding that the service is controlled, managed or operated by the other party”.

For this case, IDA noted that Sam Media was the foreign company operating the PRS. However, as stipulated under the PRS Code, IDA will consider I-Pop to be the PRS provider and deem I-Pop to be the party responsible for complying with the PRS Code.

Failure to Comply with Advertising Requirements

Section 2.2.1 of the PRS Code provides that

“A premium rate service provider shall ... in relation to all advertisements relating to its premium rate service, comply with the following requirements ...

(b) every disclosure and advertisement must state –

- (i) the description of the premium rate service offered;*
- (ii) the name of the premium rate service provider as registered with the Accounting and Corporate Regulatory Authority; and*
- (iii) the local customer service hotline for the premium rate service;*

(c) every disclosure and advertisement must fully and completely state all prices, terms and conditions of the premium rate service that have a bearing on the charges payable by end users in a manner that is clear, straightforward and easy to understand; and

(d) where a disclosure or advertisement relates to or promotes ...

- (ii) any other type of subscription-based premium rate service in which the end user is provided content or facilities on an ongoing basis until such time that the end user takes action to unsubscribe from the service,*

the disclosure or advertisement must –

- (A) state that the service is subscription-based and the period of the subscription;*

(B) contain a clear notice that the onus is on end users of the service to unsubscribe from the service if they wish to discontinue their use of the service; and

(C) set out clear instructions on how end users can unsubscribe from the service (including the unsubscription keyword command if applicable)".

As I-Pop had sent out the SMS Adverts which did not indicate any of the relevant prices, terms and conditions of the PRS advertised, IDA had found I-Pop to be in contravention of Sections 2.2.1 (b)(i), (ii), (iii), 2.2.1(c), 2.2.1(d)(ii)(A), (B) and (C) of the PRS Code.

Provision of Inaccurate Information to IDA

Section 4.3.1 of the PRS Code provides that: "*The relevant licensee must ensure that all information provided to IDA, whether in its written response, related representations or any other submissions, are complete, truthful and accurate*".

As I-Pop had failed to ensure that the information provided to IDA was "complete, truthful and accurate", IDA had found I-Pop to be in contravention of Section 4.3.1 of the PRS Code.

Penalties Imposed

In deciding on the appropriate penalty to be imposed on I-Pop for its multiple contraventions of the PRS Code, IDA considered the following factors:

Aggravating Factors

(a) I-Pop had sent out the SMS Adverts to a total of 399 subscribers, out of which 45 users had subscribed to the advertised PRS, without knowing the prices, terms and conditions.

(b) I-Pop's contraventions had continued over a period of more than 2 months (from 31 May 2009 to 13 August 2009).

(c) I-Pop had supplied IDA with inaccurate information, material to IDA's investigations, in its formal responses and in the tele-conversations with IDA officers conducting the investigations into I-Pop's contraventions on at least two occasions during the course of the investigations. Despite assurances to

IDA to the contrary, I-Pop had failed to conduct its own due diligence in ensuring that the PRS and the information it had provided complied with IDA's requirements.

Mitigating Factors

- (a) I-Pop had assured IDA that it will take measures to monitor the provision of its PRS and ensure that it does not repeat its contraventions in the future.

In particular, IDA took a very serious view of I-Pop's conduct in repeatedly providing IDA with inaccurate information, which was discovered through IDA's independent investigations, despite its assurances that the information was accurate.

IDA was therefore of the view that a sufficiently serious penalty was warranted to deter licensees from taking their regulatory obligations under the PRS Code lightly. In light of this, IDA decided to:

- (a) impose a **financial penalty of \$10,000** on I-Pop for its contravention of Section 2.2.1(c) of the PRS Code;
- (b) issue a **warning** to I-Pop for its contraventions of Sections 2.2.1 (b)(i), (ii), (iii), 2.2.1(d)(ii)(A), (B) and (C) of the PRS Code; and
- (c) impose a **financial penalty of \$10,000** on I-Pop for its contravention of Section 4.3.1 of the PRS Code.

IDA also reminded I-Pop that more severe enforcement measures would be taken against it should similar contraventions be repeated in the future.