

Case Reference	R/E/I/087
Title	Teracomm's Contraventions of the Premium Rate Services Code (" PRS Code ")
Case Opened	18 March 2011
Case Closed	29 July 2011
Complainant	IDA initiated enforcement proceeding
Respondent	Teracomm Asia Pacific Pte Ltd (" Teracomm ")
Case Summary	<p>IDA had received complaints against Teracomm's provision of mobile content download services via WAP (the "WAP Service") and the Internet (the "Internet Service"). Arising from IDA's investigations, IDA discovered that Teracomm had contravened the following provisions of the PRS Code:</p> <p><u>Section 2.12.1 of the PRS Code for Both the WAP and Internet Services</u></p> <p>Due to a system glitch, Teracomm had sent out additional chargeable SMS messages which resulted in 11 end users of the WAP and Internet Services being erroneously charged.</p> <p><u>Section 2.6.2(a)(i) of the PRS Code - the Internet Service</u></p> <p>Teracomm had failed to send the necessary reminder messages to 253 end users of the Internet Service.</p>
IDA's Determination	<p>Section 2.12.1 of the PRS Code 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>".</p> <p>Teracomm explained that end users were overcharged due to a system glitch which resulted in multiple chargeable SMS messages being sent to end users erroneously. Teracomm explained that the error was purely accidental and it was not aware that such an error could occur. Notwithstanding this, Teracomm informed IDA that it had immediately upgraded its servers and installed software to ensure that such a mistake does not occur again.</p> <p>Section 2.6.2 of the PRS Code states that: "... for every new subscription,</p> <p>(a) a premium rate service provider who provides a premium rate service (...) shall:</p> <p>(i) send a reminder message to the end user via the same medium by which the end user subscribed for the service or by SMS by no later than 24 hours</p>

before the end of each subscription period; and

(ii) where the length of the subscription period is more than one week,-

(B) send a reminder message to the end user via the same medium by which the end user subscribed for the service or by SMS at least once a month after the first month commencing from the date of his subscription to the service until such time that the end user takes action to unsubscribe from the service" (emphasis ours).

Teracomm explained that a technical error had caused its notification system to wrongly classify the affected end users as "inactive", and resulted in Teracomm not sending the necessary reminder messages to these end users.

In both instances, IDA's assessment was that accidental system faults or errors do not absolve PRS providers of their responsibilities under the PRS Code.

IDA considered the following aggravating and mitigating factors when determining the appropriate enforcement action to be imposed on Teracomm for this case:

Aggravating Factors:

- (a) Although Teracomm was unaware of the technical glitch, as part of its operational control, it should have regularly checked the services to ensure that all related systems were operating properly and that consumers were charged correctly in accordance with the terms and conditions stated in the advertisements for the services.
- (b) Teracomm had been warned by IDA before for similar failure to send reminder messages to end users. Despite this, Teracomm had again failed to send the necessary reminders to its end users.

Mitigating Factors:

- (a) Teracomm had co-operated with IDA, taken steps to rectify the contraventions through system enhancements and created the role of a compliance officer to conduct system audits and ensure compliance with the PRS Code.

(b) Teracomm had contacted all the end users who did not receive the reminder messages and provided refunds to those affected.

Taking these factors into consideration, IDA imposed a financial penalty of **\$3,000** on Teracomm for its contravention of Section 2.6.2(a)(i) of the PRS Code and **\$7,000** for its contravention of Section 2.12.1 of the PRS Code.