

Rigorous monitoring program underway for mobile premium services

The ACMA is ramping up its campaign to eradicate unacceptable practice in the mobile premium services industry.

As reported in the June edition of *ACMASphere*, the ACMA has implemented a new suite of measures to regulate mobile premium services and improve safeguards and protections for consumers.

The measures include a comprehensive program for monitoring compliance with the Mobile Premium Services Code, which came into effect on 1 July 2009. Registration of the code gives it legal force under the *Telecommunications Act 1997*, enabling the ACMA to direct

'The ACMA is disappointed at the initial results and now has 14 formal investigations underway into suppliers of mobile premium services suspected of breaching the new Mobile Premium Services Code,' said Chris Chapman, Chairman of the ACMA.

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Information for consumers, including a look-up facility to find the helpline number for a particular premium SMS/MMS service, is available at www.19sms.com.au. The Mobile Premium Service Code is available on the Communications Alliance website at www.commsalliance.com.au.

In addition to its compliance monitoring, the ACMA is developing regulations to complement the Mobile Premium Services Code, including the capability to bar mobile premium services. For more information, go to page 14. ☞

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suppliers of mobile premium services to comply with code obligations. Compliance with the code is not optional.

The ACMA's initial audit was of television, magazine, internet and other media advertisements to check compliance with advertising requirements. The most significant problems identified were:

- > a lack of provision of clear, prominent and legible pricing information—including sign-up costs and the basis for calculating charges—and information on whether or not the service was a subscription service
- > helpline numbers that were not a local or free-call number or no helpline number provided at all.

The ACMA's ongoing monitoring program comprises a rolling series of audits that identify:

- > potential breaches of the code
- > recurring and systemic problems with services
- > the providers that are responsible for problematic services.

Mobile premium service suppliers found to be in breach of the code can be issued with a direction to comply with the code rules. Failure to comply with an ACMA direction, which falls under section 121 of the *Telecommunications Act 1997* regarding an industry code, may result in penalties of up to \$250,000.

Key points of the Mobile Premium Services Code

The Mobile Premium Services Code includes improved safeguards and protections for consumers at all stages of a service. Key points of the code include:

- > a 'double opt-in' rule that helps to prevent unauthorised or inadvertent purchases of SMS services. Mobile phone users now need to provide two independent confirmations of their request for ongoing premium SMS services.
- > Additional protections for minors including:
 - > a ban on advertisements for premium SMS services targeted at children under 15 years old
 - > advertising that may encourage minors to use the service must carry a warning for people under 18 years old to ask the account holder before using the service
 - > content suppliers to consider a special set of factors when investigating complaints involving minors' use of mobile premium services.
- > Customer notifications including:
 - > an SMS alert about services they are currently subscribed to, sent monthly or whenever the customer spends a multiple of \$30 on a service
 - > a '\$MSG' flag to precede any content message that will be charged at a rate higher than a standard SMS.
- > Advertising must include clear, prominent and legible information in plain language on:
 - > price, including sign-up costs and the basis for calculating charges
 - > whether or not the service is a subscription service.

New SMS