

Premium SMS providers ordered to comply with code

The ACMA has directed mobile premium service providers AO Australia Online Pty Ltd (Australia Online) and Nine Network Australia Pty Ltd (Nine) to comply with industry rules or face hefty penalties in the Federal Court, after it found both companies breached the Mobile Premium Services Code.

The ACMA found that Nine breached the code by failing to advise of a helpline in advertising two premium SMS competitions, Keno Million Dollar Comp and Moccona Competition.

'The ACMA's research shows that premium SMS competitions are popular with consumers, and the code requires that consumers be given information about who to contact if they have questions about a service,' said Chris Chapman, Chairman of the ACMA.

Australia Online breached numerous provisions of the code, including failing to advertise the correct price and failing to state that the service was a subscription service.

'Providing clear and accurate information about the price, terms and conditions of a service is fundamental to doing business,' said Mr Chapman. 'The ACMA will continue to pursue service providers who are not upfront with consumers about costs.'

Complaints about premium SMS fell 90 per cent between September 2008 and September 2010, due to the code and other regulations put in place by the ACMA. While a direction to comply is the strongest action available to the ACMA in response to a breach of the code, the ACMA may request the Federal Court to impose penalties of up to \$250,000 if a direction to comply is contravened.

As of 3 November 2010, if a premium SMS provider does not comply with the code and causes significant detriment to consumers as a result, the ACMA can also direct mobile phone companies to not charge consumers for the service in question. ☎

The investigation reports can be found on the ACMA website at www.acma.gov.au (go to About ACMA: Publications & research > Publications > Telecommunications publications > Telecommunications investigation reports).

Information for consumers about mobile premium services is also available from the ACMA website (go to For the public: Content & advertising > Telecommunications : Mobile premium services – Information for consumers).