SMS Code of practice

1. Introduction

1.1 This code deals with the use of Short Message Service (SMS) to deliver Commercial Messages to cell phone users.

1.2 The use of SMS to deliver Commercial Messages to customers is increasing.

1.3 Customer can perceive commercial SMS as intrusive as there is no clear opt-out process, it is difficult for customers to avoid the message and there is no indication of who sent the SMS. There is presently no SMS code of practice in South Africa.

1.4 Existing codes of practice for Direct Marketing and E-Business do not adequately address the characteristics of SMS marketing.

1.5 The Marketing Federation of South Africa represents a large number of companies who are requesting guidelines on SMS marketing.

1.6 As an industry association, the MFSA is acting as a neutral forum to process the drafting of this code.

1.7 This code was drafted between June and August 2002 with the participation of Cell-C, Vodacom, MTN; over 30 Service Providers and companies; the MFSA E-Business Committee; the MFSA Board and was put forward for comment to the general public and the MFSA's 300 member companies.

2. Definitions

2.1 Network Operator – Vodacom, MTN, Cell-C or future Network Operator with SMS sending capability.

2.2 Service Provider – Any person or entity contracted to a network provider to sell and/or market SMS services.

2.3 Message Originator – Any person or entity with a commercial arrangement with a Network Operator or Service Provider to send Commercial SMS

2.4 Commercial SMS – A message sent by SMS that is designed to promote the sale or demand of goods or services whether or not it invites or solicits a response from a recipient.

2.5 Originating Number – The number allocated to the Service Provider by the Network Operator through which the commercial SMS was sent.

2.6 Recipient – A person who receives a commercial SMS.

2.7 MFSA – Marketing Federation of South Africa.

3. Objectives

Protect consumers by (1) preventing unsolicited SMS messages, (2) providing a channel for resolution and (2) promote responsible use of SMS as a marketing medium.

4. Scope

The code is limited to:

4.1 Providing rules for the sending of Commercial SMS by Service Providers and Message Originators

4.2 Providing a mechanism for consumers to (1) identify which Service Provider or Message Originator sent an SMS and (2) to be able to locate the contact details of that Service Provider or Message Originator and (3) if the response from the Service Provider or Message Originator is unsatisfactory to lodge a complaint with the MFSA

5. Rules

5.1 Message originators must not send Commercial SMS unless:
    5.1.1 the recipient has requested the SMS, OR
    5.1.2 the recipient has a prior commercial relationship with the message originator and would reasonably expect to receive marketing communications from the originator, OR
    5.1.3 where the originator has no prior commercial relationship with the recipient, the organisation supplying the originator with the recipient's information has the recipient's consent to do so for the purpose of SMS use

5.2 Message Originators must allow Recipients to unsubscribe from Commercial SMS through:
    5.2.1 Notifying the Message Originator directly, OR
    5.2.2 Being referred by the Service Provider to the Message Originator.

5.3 Message Originators must include their name or identifier in a Commercial SMS message.

5.4 Service Providers and Message Providers must include a valid originating number in all Commercial SMS messages.

5.5 Network Operators must provide the Originating Numbers issued by them to Service Providers or Message Originators and their names and contact details to the MFSA for inclusion on the site www.smscode.co.za as part of their contractual agreement with the Service Provider or Message Originator.

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