

Telecommunications Carriers' Forum

Project Scope:

Development of a Code of Practice for the Industry Self Regulation of Mobile Premium Rate Services - the "Mobile Premium Rate Services Code of Conduct"

Date Submitted:

3rd August 2007

A. Issue Identification

New Zealand consumers are increasingly using mobile service offerings as a regular form of entertainment. Mobile Premium Rate Services (SMS, MMS & WAP above standard rates) is one way that enables users to do this. In 2006 Premium SMS services were launched in NZ and we have seen significant growth since that time. The premium infotainment services on offer include ringtones, wallpaper, games, music downloads, operator chat, and txt2win trivia. Global trends show exponential growth in the Mobile Premium Rate Services market.

Mobile Service Providers and Content Providers invest heavily to promote these services. Users interact directly via shortcodes promoted by partners and content providers, to receive their content or service. As the number of services being offered increases there is some concern as to how the services are being managed and who is responsible for creating the guidelines and monitoring adherence to these guidelines.

Unlike other services that carriers offer, such as voice and standard SMS, Mobile Premium Rate Services are managed by Mobile Service Providers external to the Carriers, therefore we rely on these Mobile Service Providers to adhere to individual carrier guidelines and contractual obligations that may vary in content.

Misleading advertising and inappropriate use of Mobile Premium Rate Services has the potential to undermine end user confidence in the market. There is a related risk that a lack of confidence could lead to regulatory scrutiny. The industry recognises a need to ensure that the market develops in a socially responsible way, and prefers industry self regulation to government regulation.

A non regulated industry developed code covering issues such as subscription services, customer notifications, advertising, database management and chat services has been discussed between the carriers and Mobile Service Providers. This code could also cover cooperation with law enforcement, desired response to reported incidents, and cooperation with each other on particular cases.

A voluntary code of practice for Mobile Premium Rate Services would set standards for Carriers, Mobile Service Providers, and Content Providers. This would assist in providing the general public with the reassurance of a responsible industry approach and the confidence to continue to use advanced mobile services.

B. Background

Recent media attention on premium services and the current investigation into the potentially misleading advertising of a premium subscription service has lead the Commerce Commission to ask about industry guidelines and carriers to talk about developing a self regulating industry code of practice.

Currently, the New Zealand industry manages Mobile Premium Rate Services on an individual basis, with both carriers dealing with issues separately and against different guidelines.

Outside of the Advertising Standards Authority (ASA) and Television Commercials Approvals Bureau (TVCAB) there are no separate bodies or associations that are involved in the regular monitoring of advertising services or handling of complaints (the exception being the Commerce Commission in serious cases).

While the current management of services is working effectively, TCF members consider that customers, and the industry, would benefit from a non regulated industry code of conduct that would provide stronger and clearer guidelines as to the running and advertising of premium services, and therefore reducing complaints.

The TCF code would be a voluntary code, and TCF members and other interested parties would be invited to sign up to it, and in so doing accept that their terms and conditions for Content Providers and Mobile Service Providers need to accord with the requirements of the code.

For the purpose of this project scope:

“Carrier” means an entity that operates:

- (a) a public switched telephone network (or a functionally equivalent system) that originates, transits or terminates calls; and/or
- (b) a public data network.

“Content Provider” means any person who has a contractual relationship with a Mobile Service Provider, in order to provide mobile content/messages to the Mobile Service Provider.

“Customer” means a person who elects to receive Premium Mobile Services from a Mobile Service Provider and/or Content Provider, and has a bona fide billing relationship with a Carrier.

“Mobile Service Provider” means any person that has a contractual relationship with a Carrier in order to deliver Mobile Premium Rate Services or content/messages to the Customer. The same person may be a Mobile Service Provider and a Carrier.

“Person” means a legal person and includes a company and any other legal entity.

C. Project Scope

The scope of this project is to prepare a Mobile Premium Rate Services Code of Practice (“Code”), which would be voluntarily adopted by members of the TCF and other interested parties. The Code would:

- i. Set out certain principles that Mobile Service Providers should comply with.
- ii. Provide guidelines for Service/Content Providers to ensure compliance with their legal obligations and the obligations of the Code. Consider monitoring of compliance.
- iii. Achieve a balance between legitimate industry interests and viability, and end user interests.
- iv. Promote end user confidence in and encourage the responsible use of Mobile Premium Rate Services.
- v. Acknowledge that Mobile Service Providers and end users alike have an on-going obligation to use reasonable efforts to attempt to minimise and discourage the inappropriate use of mobile technologies and prevention strategies.
- vi. Provide guidelines for the on-going provision of information and education to end users and sales staff about the use of mobile technologies.
- vii. Other related factors that the TCF members consider relevant

This Working Party will also provide an on-going forum for discussion on issues related to Mobile Premium Rate Services.

D. Deliverables

The deliverable from this project is a self regulating Mobile Premium Rate Services Code of Practice covering all forms of Mobile Premium Rate Services and the advertising and management of these services to New Zealand end users. The Code may refer to services and capabilities that may be available on one carrier but not another, as well as detailing any differences in service offerings as appropriate.

As Mobile Premium Rate Services are continuing to evolve, once the Code is endorsed by the TCF Board, the Working Party will provide an on-going forum for discussion on issues related to the Code, with the intention that the Code will be reviewed and updated (if required) on a 12 monthly basis.

It is envisaged that the Working Party would make use of a proposed draft compiled by Vodafone and Telecom New Zealand. This draft has used as a base Vodafone NZ’s handbook modified to ensure it covers both carrier needs in the NZ market. As well as this document it is envisaged that the Working Party will use any other relevant international codes of practice, research and experts in the development of the final Code.

E. Consultation

The draft Code will be issued for public consultation to SMS Partners, the Commerce Commission and other interested parties, and they will be invited to submit on the draft Code in accordance with the timetable below.

F. Working Party Membership

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Project Leader:	Bridget Gallen	Vodafone	Bridget.Gallen@vodafone.com
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	TBC	SMS Partners	

G. Proposed Project Timeline

The table below shows a proposed project timeline.

Milestone	Date
TCF Board Approval of Project Scope	3 August 2007
First formal meeting on the Working party to discuss the content of the Code	27 August 2007
Draft Code completed and submitted to TCF Board for approval to issue for public consultation	15 October 2007
Public consultation commences	29 October 2007
Public consultation period closes	19 November 2007
Draft Code updated with public comments and submitted to TCF Board for endorsement	20 December 2007

H. Resources

A total of 50 hours of Forum Administrator time is expected to be required from July 2007 to December 2007.

I. Recommendation

That the TCF Board:

- 1) **Approve** this project scope
- 2) **Agree** that the report set out in section 7.1.11 of the TCF Rules is not required.