



## Mobile Premium Services Code Review 2010

### *OpenMarket Response*

OpenMarket welcomes the opportunity to comment on the Mobile Premium Services Code for the 2010 review.

#### *Introduction*

Following the introduction of the current version of the MPS Code in July 2009 and with further measures such as industry monitoring having been brought in and paid for by Industry, TIO complaints have reduced by up to 70%. OpenMarket is pleased with the reduction in user complaints and the general state of compliance in the Australian market in 2010 and we believe that the code in its current form adequately balances consumer protection and the ability to offer consumers the mobile premium services they want.

OpenMarket does however identify several areas in the current code which should be amended to better reflect the requirements of MPS regulation in 2010. Whilst the Code has acted to protect consumers there have been a large number of services that historically have used MPS services which have never caused consumer harm or complaints but which have been negatively and business critically by some elements of the Code and associated Industry Monitoring.

Please find several reference points detailed below.

#### *4.1.7 Chat Service warning messages*

A distinction between 'Operator' and 'Peer to Peer'/'Dating' Chat needs to be made. Requiring a chat warning message informing the user not to disclose personal information when they are interacting with an operator leads to user confusion is superfluous given there is no danger of their data being used in an untoward fashion, further it could even lead to user confusion that they are in fact conversing in a real dating environment. We would advocate the removal of this requirement for Operator Chat services.



#### ***4.4.3 Subscription confirmation messages***

We believe the additional confirmation message sent to users is superfluous.

A user of a premium rate subscription service will already have seen the terms of the service as detailed in the extensive service advertising (according to the rules set in section 3 of the Code, and specifically section 3.3). Furthermore they will also have to have responded to the ***Subscription request message (4.4.2)*** which also details the service pricing and terms.

It is our experience that the confirmation message has acted to confuse users, not least as generally the user will already be receiving other SMS at the same time as part of the service they have just received.

#### ***55c MO Services***

We would advocate that services utilizing 55c MO billing, and no other form or charging, are treated as an independent category within the MPS Code, and are subject to less prescriptive regulation. This consumer tariff point is typically used by Brands and Media campaigns, and historically has never caused consumer harm. The price point is used to enable interactive service provision where the cost of the service is priced at the same price as a 'postal' entry. The use-cases for 55c MO service are not contentious, and do not cause consumer complaints, however the level of regulation involved is driving media business out of the mobile sector, and this is certainly a loss for the hundreds of thousands of people who engage with 55c MO services.