

## Adjudicator's Report



**Wireless Application Service Providers' Association**

<b>Complaint number</b>	32180
<b>Cited WASPA members</b>	Hammer Mobile Limited (1485)
<b>Notifiable WASPA members</b>	Basebone Pty Ltd (1344)
<b>Source of the complaint</b>	WASPA Media Monitor
<b>Complaint short description</b>	Excessive charges for subscription termination requests and possible failure to execute termination requests.
<b>Date complaint lodged</b>	2016-11-22
<b>Date of alleged breach</b>	2016-11-21
<b>Applicable version of the Code</b>	14.5
<b>Clauses of the Code cited</b>	4.2, 5.4 and 15.24
<b>Related complaints considered</b>	32161
<b>Fines imposed</b>	None

<b>Is this report notable?</b>	No
<b>Summary of notability</b>	Not applicable

### *Initial complaint*

This complaint is related to complaint 32161 and shares similar facts. There are differences between the two complaints that merit two separate adjudication reports.

This complaint concerns the member’s Wallchater subscription service (“the service”), specifically the Monitor’s contention that the member levied a premium charge for requests to unsubscribe from the service. The Monitor’s complaint included the following description:

*The Media monitoring team tested the Hammer Mobile Wallchater subscription service at R15/day.*

*When unsubscribing from this service, the termination SMS on both MTN and Cell C networks charged the MM tester an amount not permitted. (R14-97 on the MTN network and R15-00 on Cell C)*

*This is considered a serious offense, as only network rates are permitted for sending a termination message.*

*We request an EMERGENCY PANEL COMPLAINT is filed to stop immediate harm to consumers.*

*We would also like to request that consumers who have unsubscribed from this service, are refunded.*

*We would like to draw the adjudicator's a/en on to termina on messages perhaps not honoured, due to lack of funds, and how this has affected a consumer's relationship to this service.*

The annexures to the Monitor’s complaint, attached and marked “**A**”, explains the crux of the complaint: when the Monitor sent an unsubscription request after successfully subscribing to the service, the Monitor’s test phone appeared to be charged either R7 or R15 for the unsubscription request, despite the Code prohibiting such a charge.

This complaint first went through an emergency referral process and was adjudicated by an emergency panel which issued a joint report addressing both this complaint and complaint 32161.

The emergency panel found discrepancies between the Monitor's evidence and the member's logs and raised concerns about "additional" charges levied for unsubscription requests that the member did not explain. These "additional" charges are largely what distinguish this complaint from complaint 32180.

In this complaint, the Monitor discovered that her test devices were charged twice. The first time was immediately after subscribing to the service and the second charge was levied after sending a request to unsubscribe from the service. This second charge appeared to be in direct contravention with section 15.24 of the Code.

The emergency panel ordered that the service be suspended pending this adjudication and directed both the member and Monitor to independently obtain logs (including logs from MTN and Cell C, the two networks implicated in both complaints).

### *Member's response*

The member lodged a response to the emergency panel's decision shortly after it was communicated to the member and its aggregator, Basebone. The member's response is attached to this report and marked "**B**".

The member's response detailed the outcome of its and Basebone's investigation pursuant to the emergency panel decision. Both confirmed that the service had been suspended as directed by the emergency panel. The member reported the following<sup>1</sup>:

1. A "network configuration" error led to the shortcode used for the unsubscription request being designated as a fully billable shortcode.
2. This meant that unsubscription requests sent to this shortcode on both MTN and Cell C triggered a charge equivalent to a subscription cost on both networks<sup>2</sup>.

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<sup>1</sup> Basebone subsequently confirmed this in response to questions I directed to both the member and Basebone during my consideration of this complaint

<sup>2</sup> The Cell C subscription option was priced at R15/day although charges seemed to be in increments of R7. This doesn't materially affect the outcome of this report.

3. The member was responsible to informing Basebone what the member intended charging consumers to subscribe to the service and Basebone communicated this to the networks concerned.
4. The networks, MTN and Cell C in this case, were responsible for configuring the shortcode used for unsubscription requests such that only network charges were applied to such requests (at most) in compliance with the Code. This appears not to have been implemented correctly.
5. The member was incapable of configuring the shortcodes used as this was conducted “within the network environment”.
6. The member also addressed concerns raised in the emergency panel’s report concerning apparent tampering of the member’s logs, as evidenced by discrepancies between column headings in the MTN and Cell C logs. The member argued that this was nothing more than a “technical failure in naming the log row” and didn’t affect the underlying data.

Pursuant to section 24.31 of the Code, I requested clarification from the member and Basebone. These are my questions and the member’s responses:

**Question:** Consumers were charged when they invoked the unsubscription request using the shortcode provided for this purpose in the welcome message. Is this correct?

**Answer:** Correct. From the information we received this only occurred if a CellC or MTN customer unsubscribed using the STOP to shortcode mechanism.

**Question:** The aggregator, Basebone (Proprietary) Limited and/or the network itself was/were responsible for ensuring that messages sent to the unsubscription short code were charged on the basis required by the Code. Is this correct?

**Answer:** Correct, as per our response we were informed that the an error occurred in the configuration of the code within the networks technical infrastructure.

**Question:** Hammer Mobile had no influence over the charges associated with the unsubscription short code aside from advising Basebone what the requisite charges should be? Is this correct?

**Answer:** Correct, we advise through documentation the price point for the service.

**Question:** Did Hammer Mobile receive the amounts charged to consumers who attempted to unsubscribe from the subscription service and were charged premium rates in the process?

**Answer:** No, the only payment we receive is related to the % agreed under contract for the share in revenue payout linked to the cost of the service on the subscription model.

Basebone's response to my questions was the following:

*We can confirm that the information provided by our IP in their response is accurate as our investigations identified the errors and we provided the detailed explanation to them for inclusion in their response.*

### *Complainant's response*

The Monitor responded to the member's response to the emergency panel report by stating the following:

1. The Monitor's various tests confirmed that charges were levied in respect of unsubscription requests.
2. Despite the Monitor's efforts to obtain logs from both networks, neither network responded to requests and the Monitor was unable to provide such logs as directed by the emergency panel.
3. The Monitor confirmed that the apparent breach had been remedied subsequent to the emergency panel's report although noted that despite its recommendation that the member refund consumers affected by these charges was not implemented.

### *Sections of the Code considered*

The applicable version of the Code is 14.5. The Monitor cited the following provisions of the Code in her complaint:

#### ***Professional conduct***

*4.2. Members must at all times conduct themselves in a professional manner in their dealings with the public, customers, other service providers and WASPA.*

...

***Provision of information to customers***

*5.4. Members must have honest and fair dealings with their customers.*

...

*15.24. A member may not charge any fee for receiving a service termination request.  
Network fees may still apply.*

***Decision***

To begin with, the Monitor alleged breaches of sections 4.2 and 5.4 of the Code. The Monitor did not substantiate these allegations and I saw no evidence of unprofessional or dishonest conduct on the member's part in the documentation before me. I therefore do not find breaches of sections 4.2 and 5.4 of the Code.

Unlike in complaint 32161, it is clear that the unsubscription mechanism that this complaint addresses resulted in charges that are in breach of section 15.24 of the Code.

Annexure "B" confirms that consumers could well have been charged for unsubscription requests in breach of section 15.24 of the Code. The member was forthright about this and I accept the member's explanation, particularly since it was subsequently confirmed by Basebone in response to questions I posed to both the member and Basebone.

In fact, Basebone's investigation informed the explanations set out in annexure "B".

I further understand from the member's responses to my questions that it did not receive the erroneous charges levied on consumers. It would only have received a percentage of the subscription charges based on its contract with the aggregator, Basebone.

The member's and Basebone's investigations clearly indicate that there was a breach of section 15.24 although they also indicate that the fault for this lies primarily with the networks concerned and, possibly, with Basebone as the direct liaison with the networks.

Given the member's sphere of influence when it comes to configuring the relevant shortcodes used for unsubscription requests and in the absence of any evidence from the Monitor to persuade me otherwise, I do not find that the member breached section 15.24.

As the service has been found to be in breach of the Code by virtue of the misconfiguration of the relevant shortcodes, it should not be reinstated until it is demonstrably compliant with section 15.24 of the Code.

### *Sanctions*

Because the service was found to be in breach of section 15.24, I direct that the service not be reinstated until such time as the Monitor is able to confirm that unsubscription requests do not trigger charges in breach of that section of the Code.

### *Matters referred back to WASPA*

In the event that the member wishes to reinstate the service, I recommend that the Monitor conduct further tests on the unsubscription mechanism to confirm that it is compliant with section 15.24 of the Code.

Name: Wallchater Gold

24 November 2016

SP: Basebone Pty Ltd

IP: Hammer Mobile

WASPA Member: Yes (affiliate)

SMS Code: 30065

URL:

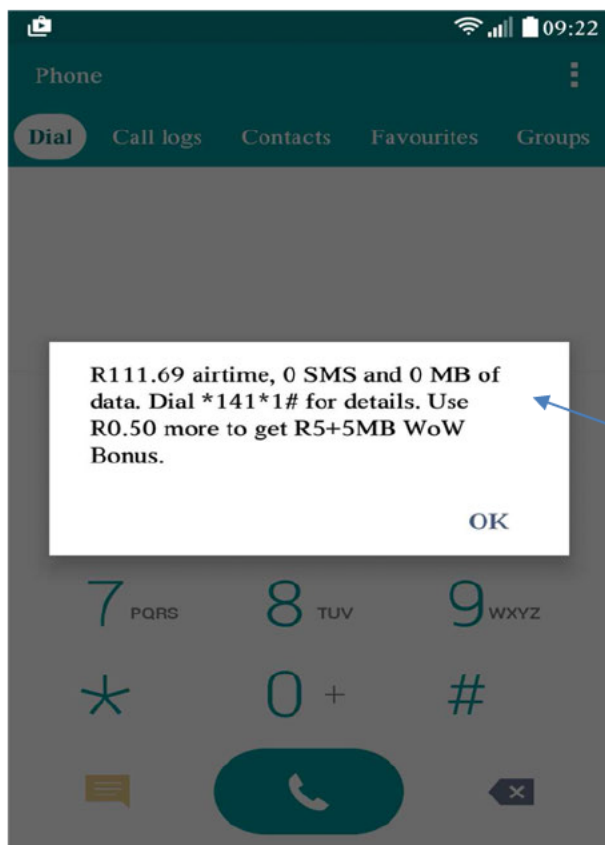
[http://nit.wondalife.com/xsg/w/110759/?lpid=36485&gclid=CL\\_T\\_PDw088CFekp0wod9NsK0A&router\\_id=bb26vt76bkc41](http://nit.wondalife.com/xsg/w/110759/?lpid=36485&gclid=CL_T_PDw088CFekp0wod9NsK0A&router_id=bb26vt76bkc41)

**Please Note: All images have been resized to meet document requirements.  
Original screenshots available on request.**

## MTN

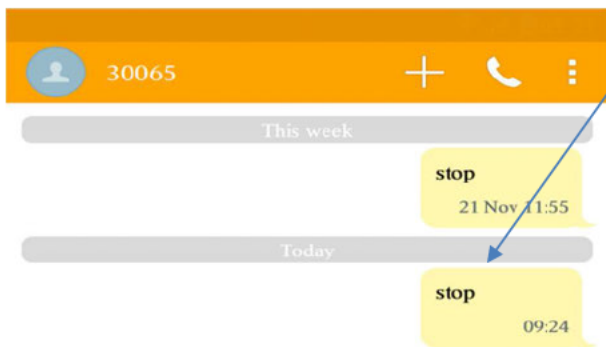
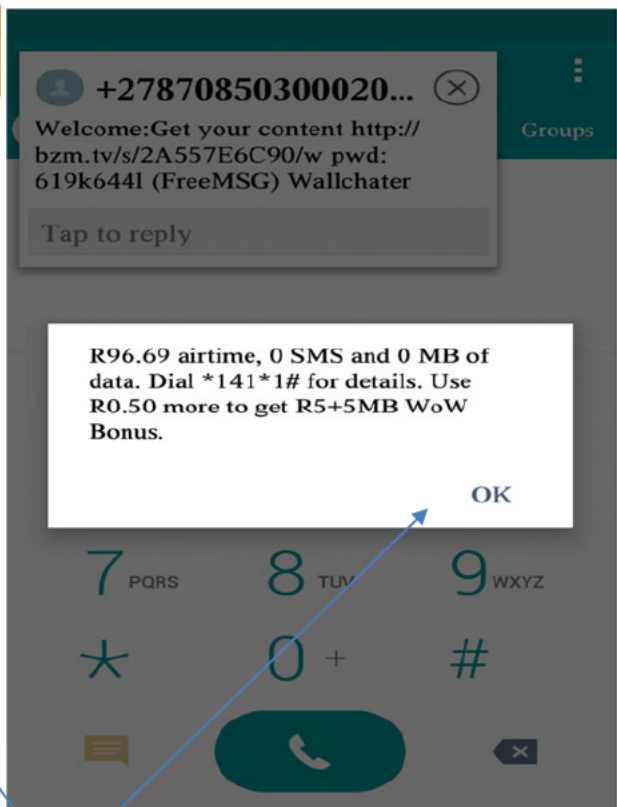
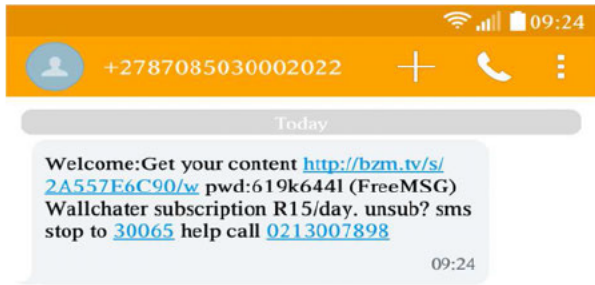
MSISDN: [REDACTED]

Handset: LG G4 Stylus



Before the opt-in, the MTN test number had a balance of R111.69.



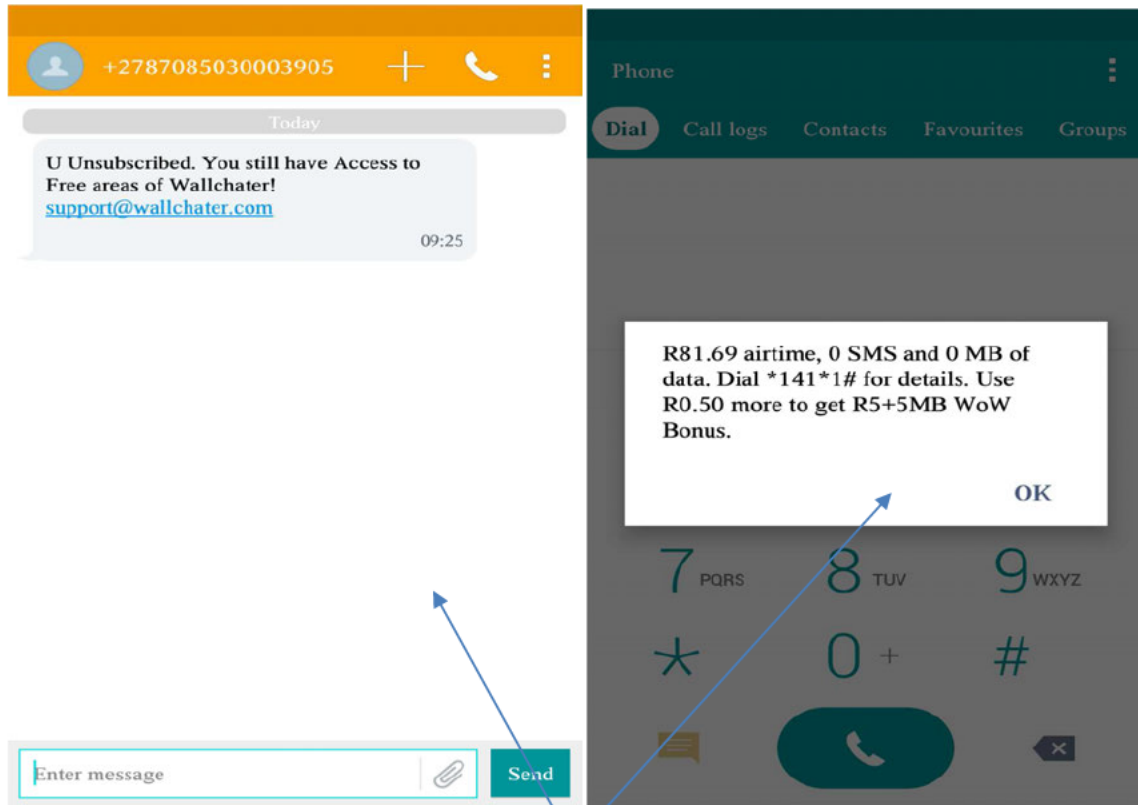


The tester then completed the opt-in and received the Welcome SMS.

The tester then checked the balance again and R15 was deducted from the balance after opt-in/

The tester then sent the stop request.



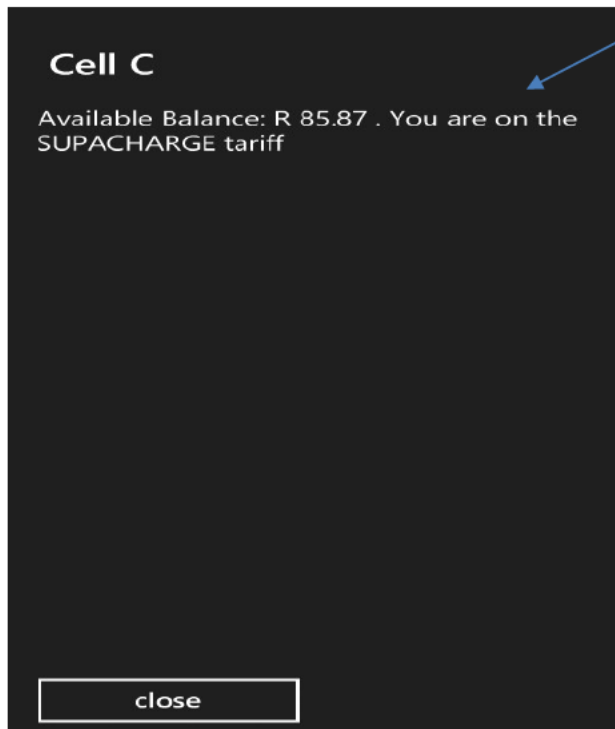
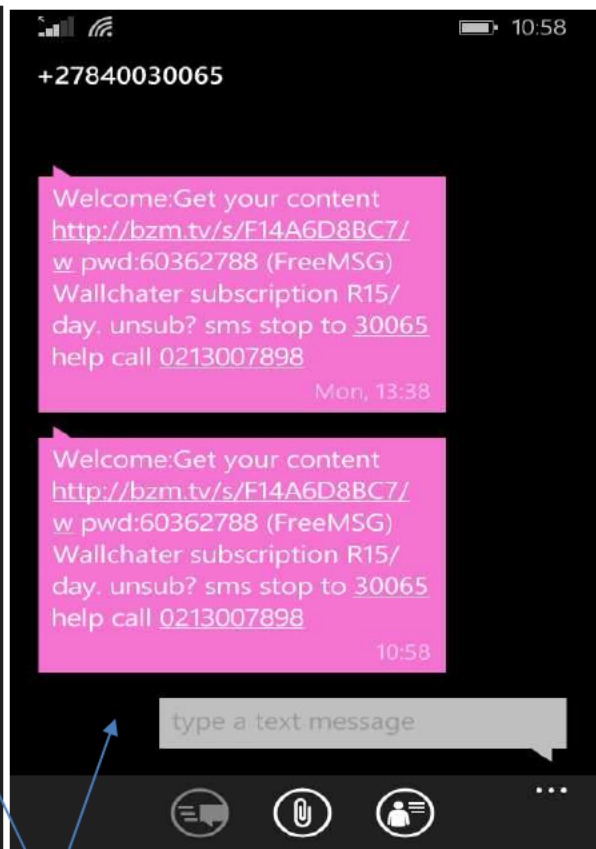
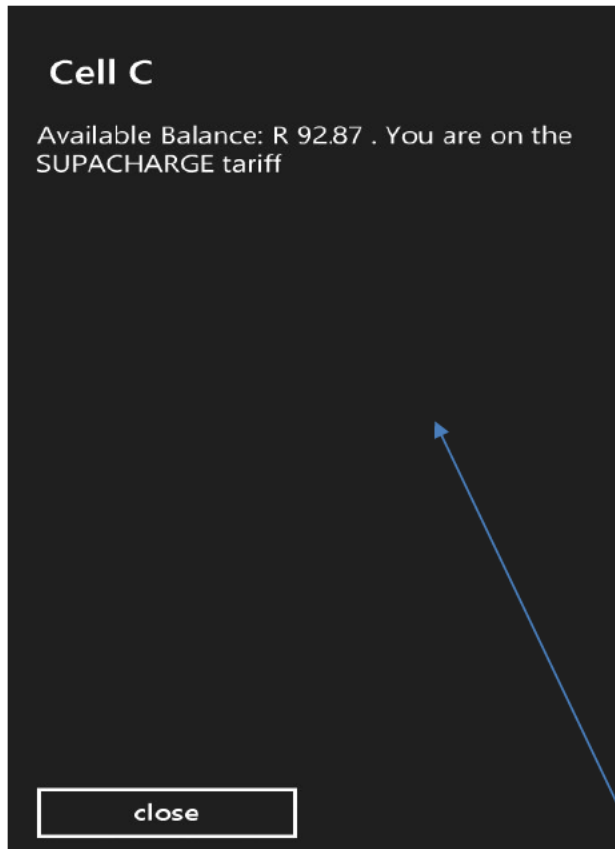


The tester then received an SMS confirming the subscription has been cancelled and proceeded to check the airtime balance again.

A further R15 was debited from the test number. A total of R30 was deducted from the number.

### Cell C

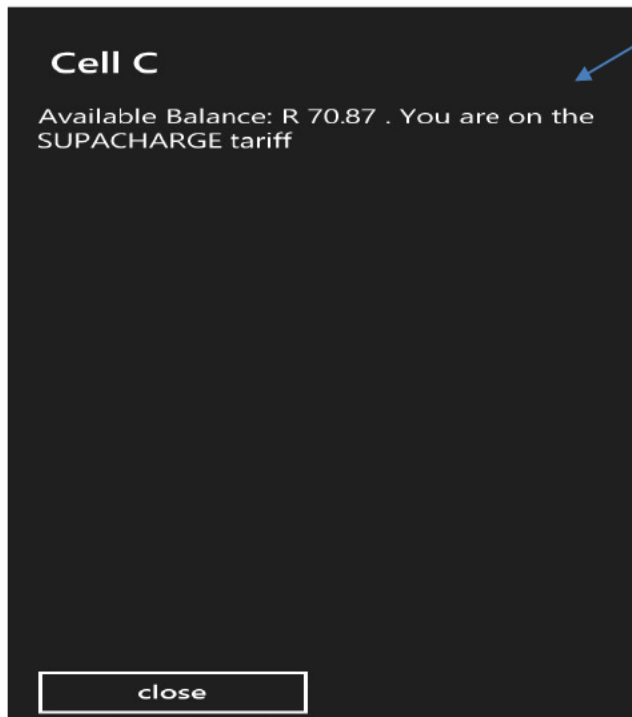
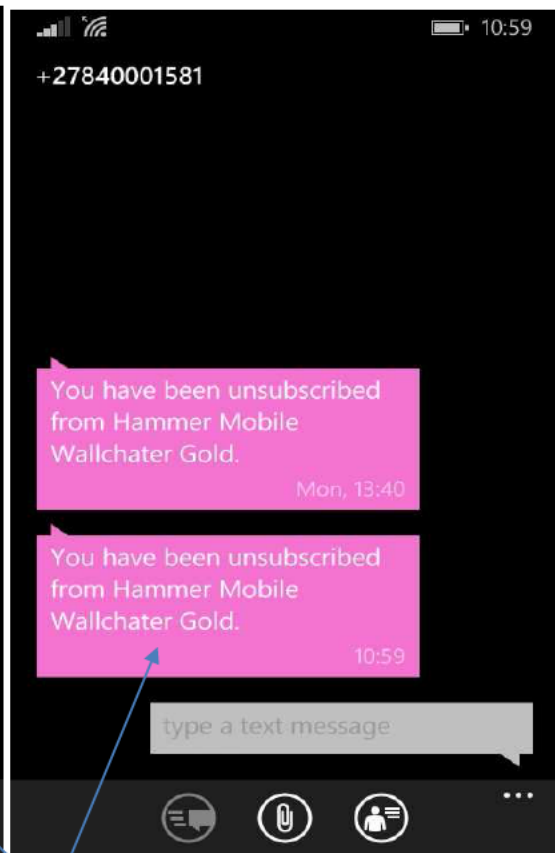
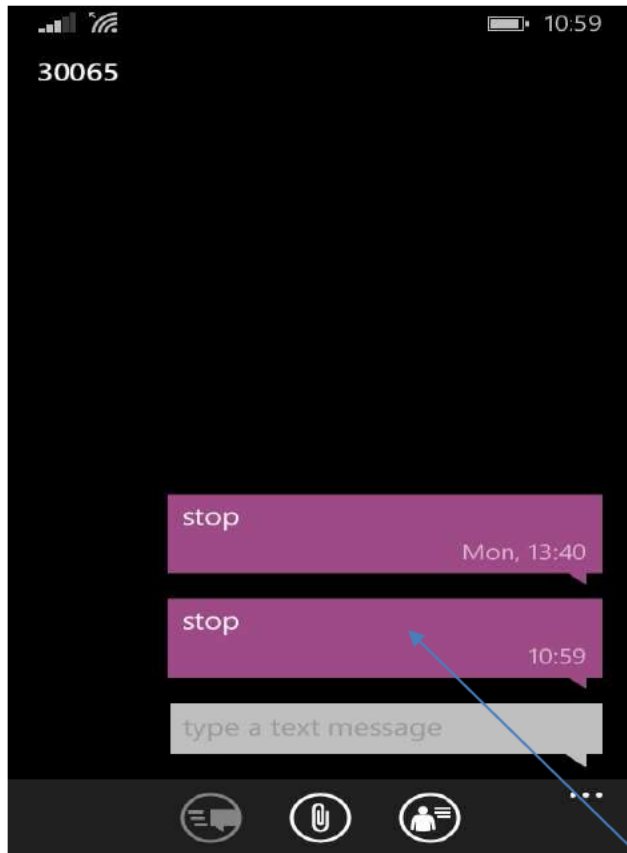
MSISDN: [REDACTED]  
Handset: Lumia 620



Before the opt-in, the Cell C test number had a balance of R92.87.

The tester then completed the opt-in and received the Welcome SMS.

The tester then checked the balance again and R7 was deducted from the balance after opt-in, although the service is advertised for R15/day,



The tester then sent the stop request and received an SMS confirming the subscription has been cancelled and proceeded to check the airtime balance again.

A further R15 was debited from the test number balance.

Name: Wallchater Gold

24 November 2016

SP: Basebone Pty Ltd

IP: Hammer Mobile

WASPA Member: Yes (affiliate)

SMS Code: 30065

URL:

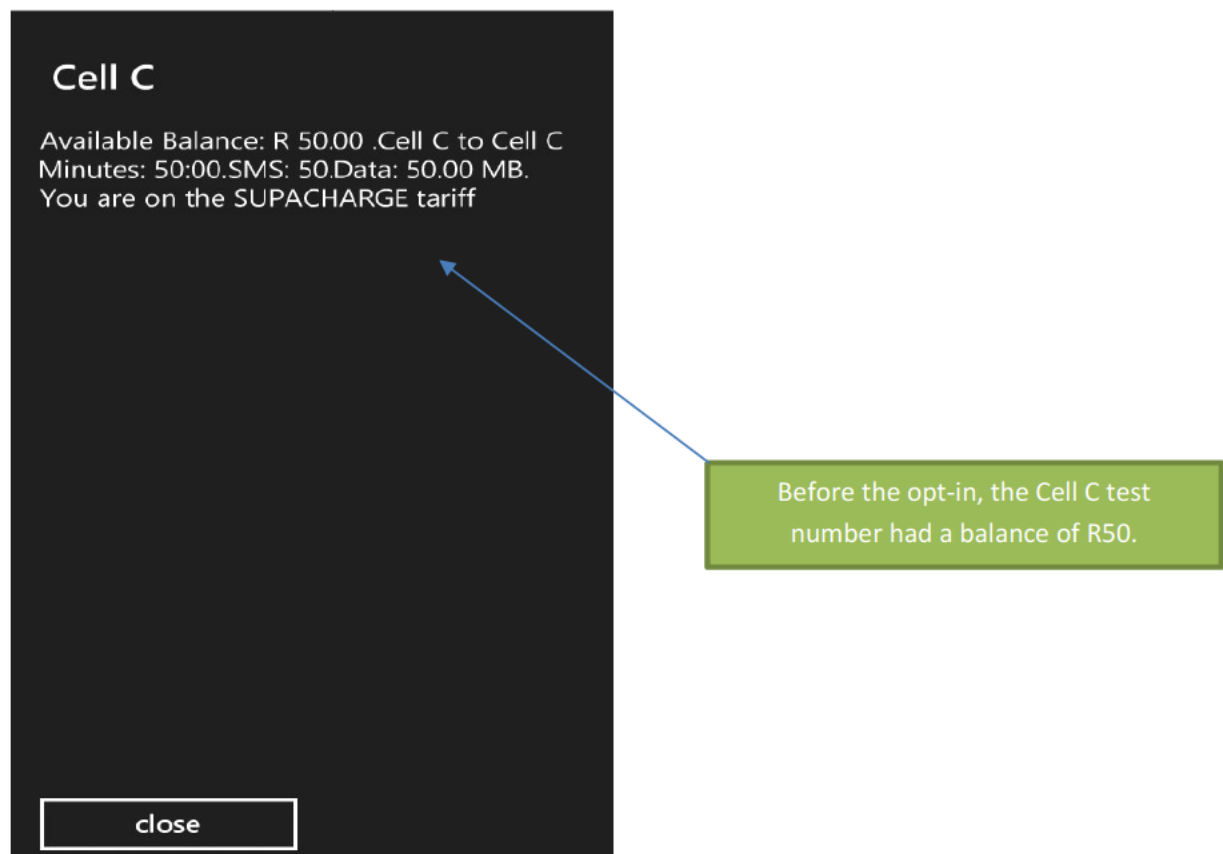
[http://nit.wondalife.com/xsg/w/110759/? lpid=36485&gclid=CL T PDw088CFekp0wod9NsK0A&router\\_id=bb26vt76bkc41](http://nit.wondalife.com/xsg/w/110759/? lpid=36485&gclid=CL T PDw088CFekp0wod9NsK0A&router_id=bb26vt76bkc41)

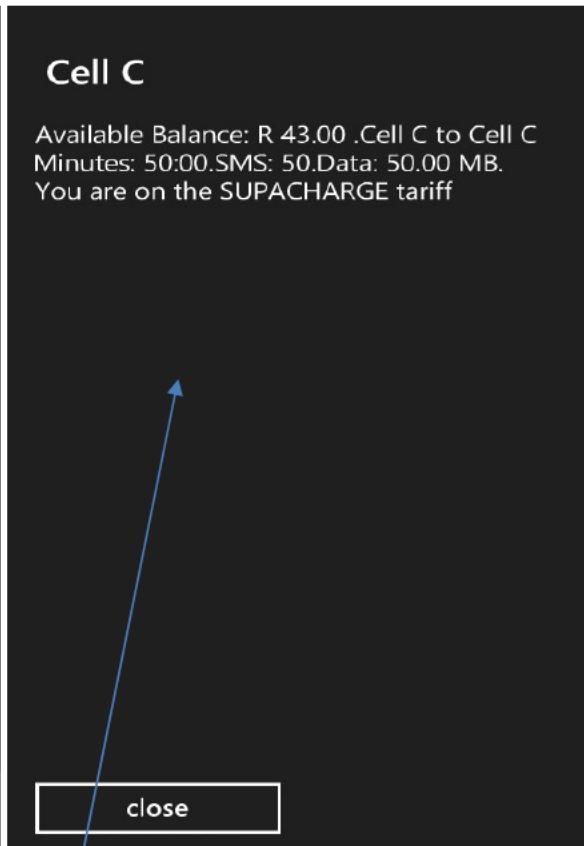
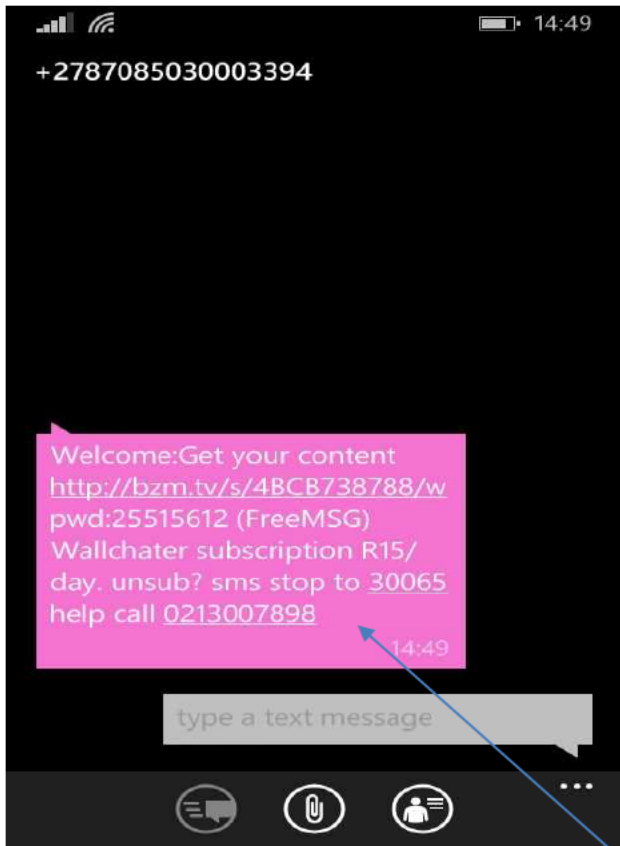
**Please Note: All images have been resized to meet document requirements.  
Original screenshots available on request.**

## Cell C

MSISDN: [REDACTED]

Handset: Lumia 620

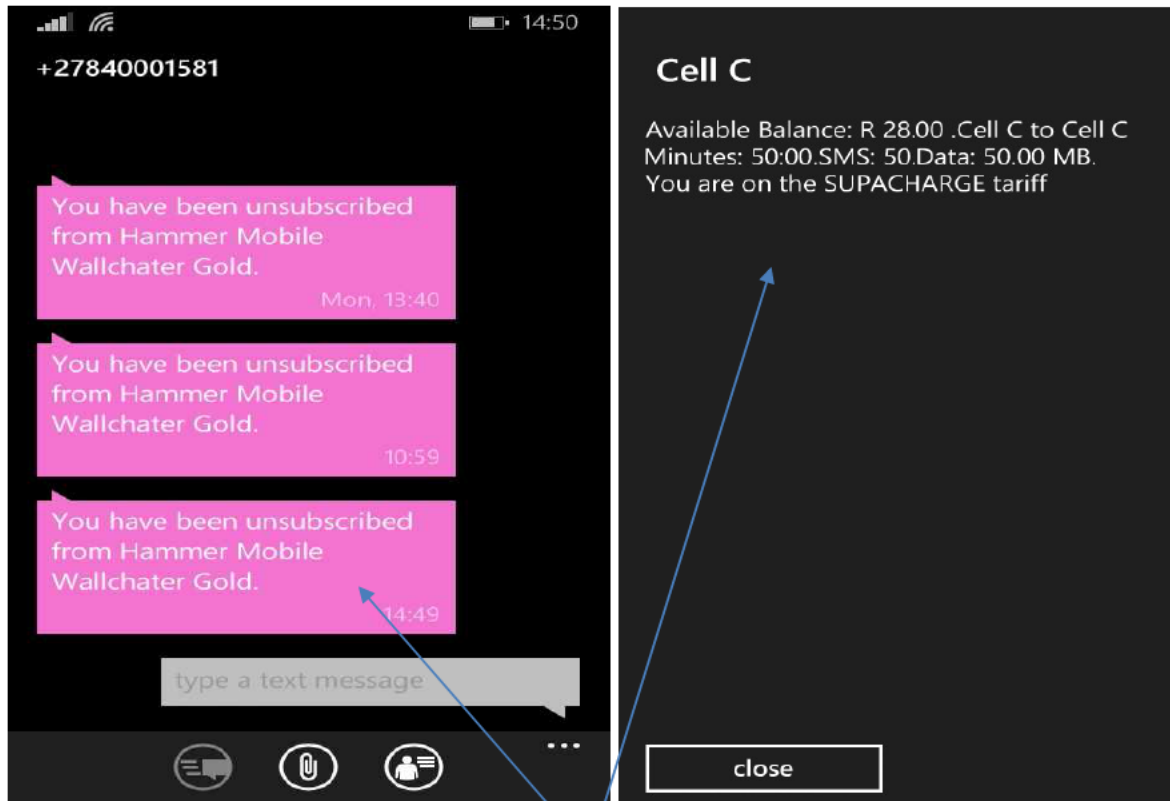




The tester then completed the opt-in and received the Welcome SMS.

The tester then checked the balance again and R7 was deducted from the balance after opt-in, although the service is advertised for R15/day,

The tester then sent the stop request.



The tester then received an SMS confirming the subscription has been cancelled and proceeded to check the airtime balance again.

A further R15 was debited from the test number balance.



Ref: Response to the report of the emergency panel for complaints #32161 and #32180.

Dear WASPA

We write in response to receipt of the Emergency Panel Report ref: #32161 and #32180 held on 25th November 2016, and received on 28th November 2016.

We would like to confirm to WASPA that we suspended the Wallchater service upon receipt of the Emergency Panel report. For ease, this has been suspended across all networks.

With regards to the logs, we once again provide the logs from within our system. Please see attached.

We submitted our response to WASPA based on the information we could extract from our system and the logs provided by the aggregator in relation to the information contained within the binds and the logs that had been submitted to them by the Network Operator.

In fact, our aggregator opened their own investigation into the service due to the fact that the information provided from our logs, their logs from the bind or that of the Network Operators did not show a charge.

Following submission of our response on 25th November 2016, we remained in liaison with our aggregator who informed us late that day, that they had been able to identify an issue with the code and that they were working with the Networks to resolve the issue.

The information we received was that there had been a network configuration issue on the code when charges to the billing systems (OBS, Cell C & TBB, MTN) were applied and unfortunately the charges being applied to the online billing environment were also applied to the code itself in error when being configured within the network. This was a complete error on this code as the configuration takes place in the network environment.

Our aggregator upon identifying the error, immediately amended the unsubscribe request mechanism within their platform to solely interact with the long number and not the short code attributed to our service, so that the networks could remedy the configuration of the code. Our aggregator immediately amending the unsubscribe request mechanism ensured there was no further harm to consumers whilst the matter was resolved.





We are happy to also confirm to WASPA that we have been advised that the Networks successfully amended the configuration of the code.

We would like to reiterate to WASPA, that we do not configure any billing related matters this is handled by our aggregator and the network accordingly. We advise our aggregator of the price point to which we wish to offer the service, and they in turn advise the network of the price points to be configured within the Networks online billing environment.

We have been advised that the charge comes from a mis-configuration of the code within the Network environment when pricing is being added to a service.

This error was completely out of our control and cannot be attributed to us.

Regarding WASPA allegations under point 3 of the Report in subject, we have not tampered the logs provided. We have not replaced the word “inbound” with the word “Opt-in”. What happened is that the system Hammer is using to manage the logs, in some cases, recognizes as inbound rows which are not and vice versa. This is a mere technical failure in **naming** the log row which however is not affecting the reality of the MSISDN interactions with the Hammer platform.

We therefore kindly request that this matter is closed against our company.

MTN [REDACTED]

Company	Domain	Sign up	Short Code	Pin Code	Points	Spent
	Wallchater	2016-11-24 08:23:53	30065 Basebone PTY	619k644I	0	R 15 (0)
Service		Sign off			Coins	
Videos		2016-11-24 08:24:57			0	

2016-11-24 08:23:28	Web Registration R 15	1/1	WebSite System	Route: 1229 Basebone PTY	Website Registration IP Address: 41.169.44.204 (ZA) URL: <a href="http://nit.wondalife.com/xsg/w/110759/">http://nit.wondalife.com/xsg/w/110759/</a> <b>MSISDN Passthrough: NO</b>
2016-11-24 08:23:29	Sent	1/1	30065 System	Streaming Route: 1230 Basebone PTY	Click <a href="http://bzm.tv/r/15C68B36/ma/SUNIQ\$">http://bzm.tv/r/15C68B36/ma/SUNIQ\$</a> to continue
2016-11-24 08:23:53	Inbound R 15	1/1	30065 Mainstream	Route: 1229 Basebone PTY	YES
2016-11-24 08:23:55	Sent	1/1	30065 Mainstream	Streaming Route: 1230 ITOUCH	Welcome: Get your content <a href="http://bzm.tv/s/2A557E6C90/w">http://bzm.tv/s/2A557E6C90/w</a> pwd:619k644I (FreeMSG) Wallchater subscription R15/day. unsub? sms stop to 30065 help call 0213007898
2016-11-24 08:23:55	Billed R 15	1/1	30065 Mainstream	Premium Route: 1229 Basebone PTY	service msg.
2016-11-24 08:24:56	Inbound R 15	1/1	30065 Mainstream	Route: 1229 Basebone PTY	stop



CellC [REDACTED]

Company	Domain	Sign up	Short Code	Pin Code	Points	Spent
 Service Videos	Wallchater	2016-11-24 09:58:15	30065 Basebone PTY	60362788	0	R 7 (0)
		Sign off			Coins	
		2016-11-24 09:59:04			0	

2016-11-24 09:57:55	Web Registration R 15	1/1	WebSite System	Route: 1229 Basebone PTY	Website Registration IP Address: 41.169.44.204 (ZA) URL: <a href="http://nit.wondalife.com/xsg/w/110759/">http://nit.wondalife.com/xsg/w/110759/</a> MSISDN Passthrough: NO
2016-11-24 09:57:57	Sent	1/1	30065 System	Streaming Route: 1230 Basebone PTY	Click <a href="http://bzm.tv/r/E6856BC9/ma/\$UNIQ\$">http://bzm.tv/r/E6856BC9/ma/\$UNIQ\$</a> to continue
2016-11-24 09:58:15	Inbound R 15	1/1	30065 Mainstream	Route: 1229 Basebone PTY	YES
2016-11-24 09:58:20	Billed R 7	1/1	30065 Mainstream	Premium Route: 2078 Basebone PTY	service msg.
2016-11-24 09:58:21	Sent	1/1	30065 Mainstream	Streaming Route: 1230 Basebone PTY	Welcome: Get your content <a href="http://bzm.tv/s/F14A6D8BC7/w">http://bzm.tv/s/F14A6D8BC7/w</a> pwd:60362788 (FreeMSG) Wallchater subscription R15/day. unsub? sms stop to 30065 help call 0213007898
2016-11-24 09:59:02	Inbound R 15	1/1	30065 Mainstream	Route: 1229 Basebone PTY	stop
2016-11-24 09:59:05	Sent	1/1	30065 Mainstream	Streaming Route: 1230 Basebone PTY	CellC: U Unsubscribed. You still have Access to Free areas.

CellC [REDACTED]

Company	Domain	Sign up	Short Code	Pin Code	Points	Spent
 Service Videos	Wallchater	2016-11-24 13:49:00	30065 Basebone PTY	25515612	0	R 7 (0)
		Sign off			Coins	
		2016-11-24 13:49:55			0	

2016-11-24 13:48:40	Web Registration R 15	1/1	WebSite System	Route: 1229 Basebone PTY	Website Registration IP Address: 41.169.44.204 (ZA) URL: <a href="http://nit.wondalife.com/xsg/w/110759/">http://nit.wondalife.com/xsg/w/110759/</a> MSISDN Passthrough: NO
2016-11-24 13:48:44	Sent	1/1	30065 System	Streaming Route: 1230 Basebone PTY	Click <a href="http://bzm.tv/r/AACE4898/ma/\$UNIQ\$">http://bzm.tv/r/AACE4898/ma/\$UNIQ\$</a> to continue
2016-11-24 13:48:59	Optin R 15	1/1	30065 Mainstream	Route: 1229 Basebone PTY	YES
2016-11-24 13:49:03	Sent	1/1	30065 Mainstream	Streaming Route: 1520 ITOUCH	Welcome: Get your content <a href="http://bzm.tv/s/4BCB738788/w">http://bzm.tv/s/4BCB738788/w</a> pwd:25515612 (FreeMSG) Wallchater subscription R15/day. unsub? sms stop to 30065 help call 0213007898
2016-11-24 13:49:03	Billed R 7	1/1	30065 Mainstream	Premium Route: 2078 Basebone PTY	service msg.
2016-11-24 13:49:55	Inbound R 15	1/1	30065 Mainstream	Route: 1229 Basebone PTY	stop
2016-11-24 13:49:56	Sent	1/1	30065 Mainstream	Streaming Route: 1230 Basebone PTY	CellC: U Unsubscribed. You still have Access to Free areas.