

Our ref. : SKMM(T)09-CD/110/001/2011.Jld-2( )

7 April 2011

"As per the circulation list"

Dear Sir,

**THE REVISED INDUSTRY GUIDELINES FOR THE PROVISION OF MOBILE  
CONTENT SERVICES: THE MARKETING VIA SMS**

We refer to the above matter.

2. For your information, the Task Force Committee Meeting for Mobile Content Services held on 4 April 2011 has finalized the proposed revised Industry Guidelines for the Provision of Mobile Content Services on the provision of marketing via SMS.

3. This revised Industry Guidelines contains the following principles:

- (a) All promotions or marketing via SMS shall be based on customer's consent;
- (b) The prohibition of sending:
  - (i) indecent, obscene, imply violence, menacing, contains bad language and false as defined in the Content Code;
  - (ii) suggestive content or content with sexual undertones such as "Dapatkan video terhangat pelajar universiti sekarang" is also prohibited; and
  - (iii) misleading and does not materially describe the content offered;
- (c) the prohibition of broadcasting any messages, promotion including marketing message or announcement on behalf of any organization, society, corporation or company to persons who have no prior relationship with the organization, society, corporation or company; and

- (d) The obligation and penalty for content provider and the 3<sup>rd</sup> party content provider.

(The details of the revised Industry Guidelines are attached herewith for further reference)

4. Please be reminded that the revised Industry Guidelines shall come into force on 18 April 2011 as agreed in the above Task Force Committee Meeting. In this regard, SKMM would like to seek your assistance to notify all the content providers on the changes and amendment made in the revised Industry Guidelines and to ensure compliance by all the content providers.

Please contact Puan Sharizan Abd Aziz at 03-8688 8155 or Puan Hazirah Md Nawati at 03-8688 8125 should you need further clarification on the above matter.

Thank you.

Yours faithfully,



**ZULKARNAIN MOHD YASIN**

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## 8 Marketing Messages via SMS

- 8.1 The marketing or broadcast messages via SMS shall only be sent with the consent from the mobile customer. Consent can be either:
  - a) Express consent; or
  - b) Consent that can reasonably be inferred from the prior existing relationships of the individual or organization with the recipient.
- 8.2 For a mobile customer who purchased from a Content Provider as a one-time purchaser, the Content Provider may send SMS text marketing message(s) to this mobile customer only if the date of SMS text marketing is thirty (30) days or fewer, from date of the last access by the mobile customer to the Content Provider's mobile content service.
- 8.3 Subject to sub-section 8.5 below, the Content Provider may send SMS text marketing message(s) to a mobile customer who is a subscriber to one (1) or more subscription service(s) provided by the Content Provider, so long as there is at least one (1) active subscription. The "STOP", "STOP ALL", "BATALL" and "BATALL SEMUA" keywords when received by a Content Provider as instruction to terminate a subscription service shall also stop future SMS text marketing messages(s) from being sent to the mobile customer after the end of a thirty (30) day period in the event that terminating that subscription service means that the mobile customer no longer has any active subscription with the Content Provider.
- 8.4 A Content Provider may, at the end of the thirty (30) day period provided in sub-sections 8.2 and 8.3 above, procure an express consent from the mobile customer, a consent which shall be sent through the CPA System, in order to extend the period for another thirty (30) days during which the Content Provider may continue to send to the mobile customer marketing message(s). No extension shall be allowed beyond this sixty (60) day period.
- 8.5 When a mobile customer sends an "OUT" or "KELUAR" to the CPA system, the Content Provider shall immediately cease sending out any further SMS text marketing message(s) to this subscriber even if the mobile customer has an active subscription.
- 8.6 All marketing messages sent to the mobile customers must be sent at no cost to the subscribers.
- 8.7 All marketing messages sent out shall be subject to Section 4.
- 8.8 If the marketing message is a message which solicits purchase, subscription or any other instances where the recipient of the message is encouraged to pay for the content/service, then the relevant price(s) shall be provided in the marketing message itself.
- 8.9 The Content Provider shall include the following as part of the marketing message:
  - a) Information on ways to opt out from receiving future marketing messages;
  - b) the Content Provider's company name; and
- 8.10 The Content Provider shall not use peer-to-peer SMS or International Gateway in sending marketing messages.

- 8.11 The Content Provider shall only broadcast the marketing messages between 8a.m. to 7 p.m.;
- 8.12 The Content Provider shall not send marketing messages which are:
- a) indecent, obscene, imply violence, menacing, contain bad language and false as defined in the Content Code;
  - b) contain, suggestive content or content with sexual undertones such as “Dapatkan video terhangat pelajar universiti sekarang” is also prohibited; and
  - c) misleading and does not materially describe the content offered.
- 8.13 The content provider shall not broadcast any messages, promotion including marketing message or announcement on behalf of any organization, society, corporation or company to persons who have no prior relationship with the organization, society, corporation or company.
- 8.14 Notwithstanding para 8.1 and 8.13 above, the content provider may broadcast public service messages as instructed by the Commission from time to time.
- 8.15 Where the content provider has breached Para 8.1 to 8.15 above, the following actions shall be taken:

Number of offences	Where a content provider committed the offence, the mobile network operator shall immediately:	Where a 3 <sup>rd</sup> party content provider or sub content provider committed the offence, the content aggregator shall immediately:
1 <sup>st</sup> Offence	<ol style="list-style-type: none"> <li>(a) suspend the affected keyword for 7 working days;</li> <li>(b) ensure that the content provider make a refund to all affected customers where applicable; and</li> <li>(c) provide a report on the non-compliance and action taken to the Commission within 7 working days.</li> </ol>	<ol style="list-style-type: none"> <li>(a) suspend of the affected keywords for 7 working days;</li> <li>(b) make a refund to all affected customer; and</li> <li>(c) provide a report on the non-compliance and action taken against the 3<sup>rd</sup> party or sub-content provider including the details of the 3<sup>rd</sup> party or sub-content provider to the mobile network operator and the Commission with 7 working days.</li> </ol>
2 <sup>nd</sup> Offence	<ol style="list-style-type: none"> <li>(a) suspend the affected short code for 14 working days;</li> <li>(b) ensure that the content provider makes a refund to all affected customers where applicable; and</li> <li>(c) provide a report on the non-compliance and action taken to the Commission within 7 working</li> </ol>	<ol style="list-style-type: none"> <li>(a) Suspend all the 3<sup>rd</sup> party keywords under the same short code for 14 working days;</li> <li>(b) make a refund to all affected customer; and</li> <li>(c) provide a report on the non-compliance and action taken against the 3<sup>rd</sup> party or sub-</li> </ol>

	days.	content provider including the details of the 3 <sup>rd</sup> party or sub-content provider to the mobile network operator and the Commission within 7 working days.
Recurrence of Offence	<p>(a) suspension of the affected short code for 30 working days or until the content provider satisfies the Commission that it has taken the necessary steps to ensure non-recurrence of the offence, whichever is later;</p> <p>(b) make a refund to all affected customer where applicable; and</p> <p>(c) provide a report on the non-compliance and action taken to the Commission within 7 working days.</p>	<p>(a) terminate the contract of the sub content provider;</p> <p>(b) make a refund to all affected customers; and</p> <p>(c) provide a report on the non-compliance and action taken against the 3<sup>rd</sup> party content or sub-content provider, including the details of the 3<sup>rd</sup> party or sub content provider to the mobile network operator and the Commission within 7 working days.</p>

**8.16** The MCMC may evaluate the information pertaining to the offence and determine whether or not further action(s) need to be taken against the non-compliant Content Provider. The mobile network operator shall take action as instructed by MCMC.