

Advertising: Australia moves against mobile phone spam

The Australian Communications and Media Authority (ACMA) has brought its first prosecution against mobile phone spamming - based on the misuse of data collected from a website.

ACMA brought a prosecution in the Australian Federal Court against two companies, Mobilegate Ltd and Winning Bid Pty Ltd - and three individuals - Simon Anthony Owen, Tarek Andreas Salcedo and Glenn Christopher Maughan in its first case involving SMS spam under the Spam Act 2003 and the Trade Practices Act 1974.

ACMA started the proceedings against eight respondents in December last year and Judgment by default was handed down in October 2009.

The ACMA alleged that the respondents were engaged in a complicated scheme to obtain mobile phone numbers from members of dating websites, using fake member profiles, in order to send commercial electronic messages by SMS.

The ACMA alleged that:

- after the numbers were obtained, unsolicited messages were sent to the mobile phone numbers offering the opportunity to chat via SMS using services described as the 'Safe Divert' or 'Maybemeet' services; the chat was not offered by genuine members of dating websites but employees of Mobilegate and Winning Bid; consumers were charged up to five dollars per message; and when users questioned whether the messages were from a real person, they were told that it was a real person who was using the "Safe Divert" service to keep their mobile phone number private.

The ACMA believes the scheme generated more than AUD2 million in proceeds.

A further hearing is scheduled to commence on 30 November in relation to the allegations as against the remaining three respondents.

In respect of the five respondents named above, the the Federal Court in Brisbane imposed a

total of AUD15.75 million in penalties.