



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Clickatell (Pty) Ltd
	Cell C
Telephone Network(s)	MTN
	Vodacom
Information Provider (IP) (if applicable)	Partymob
Service Type	Content Downloads (Games, ring tones, wallpapers, pictures)
Source of Complaints	Competitor
Complaint Number	#0009

Complaint

A complaint was received from a competitor of the SP, concerning an advertisement placed by the IP (which appears to be InfoMedia Services Ltd trading as Partymob.com) in You magazine with date 8 September 2005.

The Secretariat conducted an investigation into the service offered by the IP through the SP.

The following breaches of the WASPA Code of Conduct were raised:

6.2.5. The price for a premium rated service must be easily and clearly visible in all advertisements. The price should appear with all instances of the premium number display.

Investigation

The Secretariat received a response from the SP. The SP's response raised the following specific issues:

- The primary objective of the WASPA Code of Conduct is to ensure that members of the public can use mobile services with confidence, assured that they will be provided with accurate information about all services and the pricing associated with those services. The SP believes that its client, the IP, have not contravened this objective in any way.
- The WASPA Advertising Guidelines referred to in clause 6.1 of the WASPA Code of Conduct have not been published publicly at the time of the

placement of the advert complained about: No claim can be made against the SP or IP with regard to the advertising guidelines and principles as the information was not available at the time.

- The SP submitted that in its opinion all costing seems to be legible and transparent. The SP contends that the cost is mentioned with every service included in the advertisement as well as clearly stated at the bottom in bold font.
- The SP objected to the relevance of the complainant's comments regarding to the pricing of the service arguing that this is a commercial matter not governed by the WASPA Code of Conduct.

Decision

Clause 6.2.5 of the WASPA Code of Conduct contains three requirements:

1. The price for a premium rated service must be easily visible;
2. The price for a premium rated service must be clearly visible; and
3. The price should appear with all instances of the premium number display

Requirements 2 and 3 are objectively ascertainable and there is no breach of the WASPA Code of Conduct was found in respect thereof. Requirement 1 is not as objectively ascertainable as the other requirements. Subjective issues such as ease of visibility are more appropriately addressed by the WASPA Advertising Guidelines, which will specifically deal with issues such as font size. The Adjudicator regarded the advertisement (and particularly the font size used) as being on the border of ease of visibility and while this is a questionable business practice, no breach of the WASPA Code of Conduct could be established.

The Adjudicator did not uphold the complaint.