



## REPORT OF THE ADJUDICATOR

**WASPA Member (SP):** Clickatell (Pty) Ltd

**Information Provider**  
**(IP):** MediaPlazza  
(if applicable)

**Service Type:** Pricing of downloadable content on screenshots

**Complainant:** Member of the public

**Complaint Number:** 0097

**Adjudicator:** Kerron Edmunson

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### Complaint

The complainant submitted a complaint to WASPA by email on 4 December 2005 concerning a screenshot or WAP screen for the Mediaplazza whitelabel shortcode 35001, claiming “double-charging in every product”. The complainant states further that “It is a ZAR3 shortcode but the service is not completed until the customers sends another message to the same shortcode. Therefore the total price will be ZAR6 (sic). The second message is apparently to “confirm the make of phone” by sending the first 3 letters of the cellular phone brand”.

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### SP Response

The SP responded by including a screenshot of the order screen, called a browser pop-up, for ordering content from mobile.datingbuzz.com. The SP explains that in “the bottom right hand of the pop-up is clearly stated “R3/SMS (2 SMS) + download fees” which indicates that you are charged R3 per SMS, and that ordering requires 2 SMS messages. Therefore a total of R6 per item.... As the cost of the SMS as well as the amount of SMS required are stated on the order screen there is clearly no fraudulent intention from MediaPlazza in this case. MediaPlazza is one of our largest clients providing mobile content and have been so for about 2 years. This is the first complaint of this nature that I have received for their service.”

The SP also includes some marketing information concerning MediaPlazza which is, in my view, not relevant to this enquiry.

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### Consideration of the WASPA Code

In addition to section 3.1 (professional and lawful conduct) which states: “members will at all times conduct themselves in a professional manner in their dealings with

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the public, customers, other wireless application service providers and WASPA”, section 6.2 (Pricing of services) is relevant:

**Section 6.2.3:** pricing must not contain any hidden costs. Where applicable, pricing for content services must include the cost of the content and indicate any bearer costs that may be associated with downloading, browsing or receiving that content.

**Section 6.2.4:** pricing contained in an advertisement must not be misleading. If multiple communications are required to obtain content, then the advertised price must include the cost for all communications required for that transaction. A clear indication must always be given that more premium messages are required.

**Section 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.

Given that the second message appears to require customers to indicate the type of handset they are using, section 6.3 is also relevant:

**Section 6.3.1:** for services such as MMS, that have specific handset requirements, advertisements must make it clear that the customer needs to have a compatible handset that has been correctly configured to use that service.

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## Decision

The SP has indicated that in its view, displaying a message which states “R3/SMS (2 SMS)” is sufficient to indicate the total cost of the service. Unfortunately, when considered against the requirements of section 6.2 and 6.3, it is not, for the following reasons:

- Stating the price in that way does not reflect the cost of the content and indicate any bearer costs that may be associated with downloading, browsing or receiving that content
- If multiple communications are required to obtain content, then the advertised price must include the cost for all communications required for that transaction, and a clear indication must always be given that more premium messages are required – in my view the statement used to describe price does not amount to a clear indication. Had the words “R3/SMS (2 SMS required = R6)” been used, this would have been more appropriate, but since the purpose of requiring 2 SMSs is not at all clear from the SP’s response, why not just say R6/SMS?
- The price for a premium rated service must be easily and clearly visible in all advertisements and should appear with all instances of the premium number display – the screenshots provided to me do not contain a reference to price next to the premium number
- Advertisements for services that have specific handset requirements must make it clear that the customer needs to have a compatible handset that has been correctly configured to use that service – the second SMS appears to require handset information although the advertisement does not indicate why this would be so. If it is the case that the service simply requires the second SMS and the handset information is irrelevant, this could be interpreted as simply requiring a second SMS which can be charged for, as opposed to a genuine attempt to establish what handset is being used. Even if this is not the case, the advertisement does not indicate that customers will be required to have a particular handset to use the service.

## **Sanction**

In the circumstances there has been a breach of each of sections 6.2.2, 6.2.3, 6.2.4 and 6.3.

The SP is directed to:

- pay a fine of R1,000 for each breach, in total an amount of R4,000, to WASPA within 5 days of the date of publication of this finding; and
- correct any instances of this advertisement which may continue to appear in the format complained of; and
- take note of the finding in relation to future advertisements.