



## REPORT OF THE ADJUDICATOR

**WASPA Member (SP):** Marketel

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

**Service Type:** Adult service – pricing

**Complainant:** Member of the public

**Complaint Number:** 0116

**Adjudicator:** Kerron Edmunson

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### Complaint

The complainant has faxed through to WASPA a page of an advertisement dated 11 January 2006 which was published in the Mercury newspaper. The complainant also sent a complaint by email explaining the matter complained of. The complainant states that there are “several Adult services WASP’s who are currently advertising falsely by NOT saying “VAS rates apply” in their ads, or saying “Free” or saying “Std cell rates” etc. etc. I have copies of more than 10 ads that are in direct breach of the WASPA code of conduct. I would like to fax a copy of these ads to you.”

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### SP Response

The SP has acknowledged that the service in question is run by them and that the advertisement of 11 January 2006 in the Mercury did not contain the words “VAS rates apply, Free minutes do not apply.”, but states that the advertisement did contain pricing for the SMS part of the advertisement.

Furthermore the SP states:

1. “The same advertisement appeared in The Star, Die Son, Die Burger and the Cape Argus on 11 January 2006 with the wording “VAS rates apply, Free minutes do not apply” included.
2. The wording “VAS rates apply, Free minutes do not apply” has been included in advertisements with the Mercury and other publications on other dates on an ongoing basis.
3. Marketel and its client had dealt with this matter previously and all advertising was altered by end August 2005 to comply fully with the WASPA and Network requirements.
4. This was a re-run of an existing ad in possession of the Mercury. As far as can be determined, the paper used an older version of the advertisement.

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Given the above, Marketel is satisfied that the error was not an intentional or uninformed breach on the part of its client, but that it was rather an administrative failure between the client and the publication or at the publication. We are furthermore satisfied that the client has remedied the breach. While we acknowledge that a breach has occurred, we trust that WASPA will consider the fact that this was not a wilful attempt to mislead potential users of the service in making its determination.”

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### **Consideration of the WASPA Code**

Section 4.1.1 of the Code (provision of information to customers) states: “Members are committed to honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.”

Section 4.1.2 of the Code provides that “Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.”

Section 6.2 (pricing of services) provides at:

6.2.2 – all advertisements for services must include the full retail price of that service.

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.

6.2.4 – pricing must not be misleading...

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.

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### **Decision**

The complainant has not specified the sections of the Code that he or she is relying on. However, it is sufficiently clear from the complaint that the IP has failed to comply in part or at all with the provisions of the Code relating to pricing, as listed above. All information regarding the rates applicable to the service should be disclosed in the advertisement. Price (including all applicable costs) should be disclosed with the premium rate number. The pricing provisions of the Code are clear and unambiguous, and apply to all services including adult services. The complaint is upheld.

The SP has admitted to breaching the provisions and made a full apology. It would appear that the publication was an error. This has been taken into account in deciding a sanction.

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### **Sanction**

- The SP is ordered to correct all advertisements so as to fully comply with the relevant provisions of the Code with immediate effect.
- The SP is ordered to pay a fine of R2,000 to WASPA within 5 days of the making of this order, suspended for 12 months from 11 January 2006 provided no other complaints are received against the SP.