



## REPORT OF THE ADJUDICATOR

**WASPA Member (SP):** AfriGIS  
**Information Provider:** YellowPages / Telkom  
**Service Type:** ADVERTISING  
**Source of Complaints:** Consumer  
**Complaint Number:** #0375

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### Complaint

A complaint was received from a member of the public concerning an advertisement on a web site. The complaint reads:

*"I am complaining about the Yellow Pages web site (yellowpages.co.za) which shows an advertisement for Yellow Pages with the code 34310 which does not have any pricing nor any terms and conditions whatsoever.*

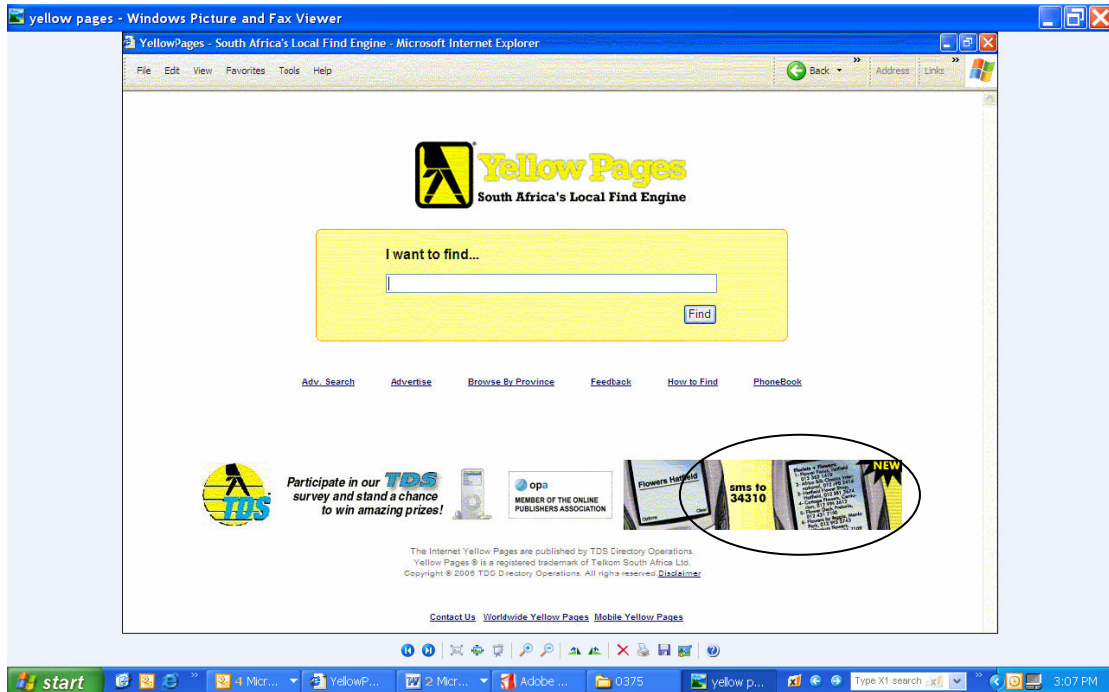
*I have looked at your advertising rules and believe this contravenes clause 9.2.2.2".*

The complainant referred to clause 9.2.2.2 of the WASPA Advertising Rules, which provides for web site advertising and which reads:

- For each unique access number, the full and final cost of the access must be displayed **immediately below, or above, or adjacent to the unique access number or Content access code** in a non-serif font.
- If the ad and/or offer is on a third party web site as a graphic or display text, then the display text with pricing and contact info **must** be displayed on **immediately below, above or to the side of** the access number to show the FULL cost to the consumer. This includes for example, text-based ads placed on Google-based (or similar) advertisements.
- The T&C text must be placed close as possible to the unique access number.
- T&C information must be placed horizontally.

The Complainant did not complete the standard complaint form on the WASPA web site, but sent his complaint, together with the screenshot (Screenshot "A" below), directly to the WASPA complaints address.

Screenshot “A” – Complainant’s Screenshot



**SP Response**

The secretariat received 2 responses from the SP. The first as follows:

*“...we have taken note and are in the process of rectifying. (Hopefully day or two..”*

The second response from the SP as follows:

*“ Note that this complaint was resolved the next day.*

*It was introduced due to code change on the html which moved the price to the bottom and has now been included in the physical image itself”.*

**Investigation**

The complaint was made on 26 July 2006. On 01 August the WASPA Secretariat advised the SP of the complaint and on the same day received the first response (above) from the SP, noting the complaint and recording that the breach (tacit acknowledgement) was in the process of being rectified.

On 08 August 2006, the second response from the SP to the WASPA Secretariat records that the breach was rectified on 02 August 2006, i.e. the day after the complaint was received by the SP and records that the breach occurred due to the html coding on the web site. The second response also records that the coding error in unlikely to recur due to the price being included in the image itself.

It should be noted that neither response from the SP addressed the issue in the complaint relating to the omission of terms and conditions (T&C) – defined in the WASPA Advertising Rules as:

“any conditions attached to access to content services that a consumer must be made aware of”.

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## **Decision**

The complaint amounts to a breach of two aspects of the WASPA Advertising Rules:

- (1) Display Rules for Costs; and
- (2) Display Rules for T&C.

These two aspects will be dealt with seriatim hereunder.

The WASPA Advertising Rules are published by WASPA, pursuant to Section 6 of the WASPA Code of Conduct Version 3.2 (now Version 4.3). The Rules and the Code of Conduct are to be read concurrently.

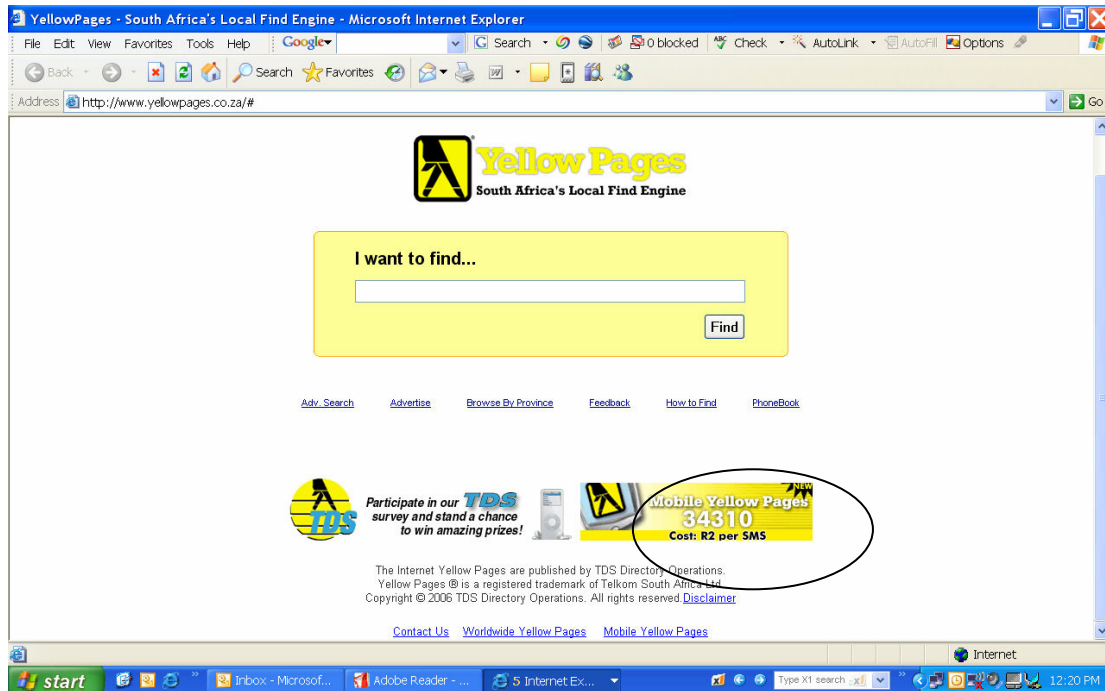
### 1. Display Rules for Costs

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

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

It is clear from the screenshot received from the Complainant (above) that at the time of the complaint, no pricing for the premium rated service appeared on the web site.

It is clear from the screenshot following rectification of the breach (Screenshot “B” below) that the breach has been rectified.

Screenshot “B” – Following rectification by SP

The Adjudicator upheld the complaint relating to pricing.

- The Adjudicator has imposed the following sanction in respect of the complaint regarding the breach of the requirement that price should appear with all instances of the premium number display, the SP is:
  - Formally reprimanded for its breach of the WASPA Code of Conduct and the WASPA Advertising Rules.

Regarding the breach of the requirement for displaying costs, the SP is ordered to pay a fine of R1 500. The Adjudicator has considered the speed at which the SP rectified the breach and the SP's co-operation in resolving the complaint.

## 2. Display Rules for T&C

Clause 9.1 of the WASPA Advertising Rules relating to Internet web sites stipulates that the scope of the rules apply to:

- "... all advertising placed on Internet-based web sites visible to the general public where Access Channels are displayed. This also includes advertisements placed on third-party web sites".

Clause 9.2.1 (Broad Overview) and 9.2.2.2 (Position) of the WASPA Advertising Rules relating to Internet web sites, contain 5 requirements:

- T&C information must be generally available to all users on the Internet;
- T&C information must be immediately adjacent to, or above or below the unique access number;

- T&C information on multiple offers must show individual T&C individually;
- T&C information must be easy to read and not disguised in colour schemes; and
- T&C information must be placed horizontally.

It is clear from the screenshot received from the Complainant (“A” above) that at the time of the complaint, no T&C were published on the web site.

It is clear from the screenshot (“B” above) that the breach has not been rectified.

The Adjudicator upheld the complaint relating to T&C.

- The Adjudicator has imposed the following sanction in respect of the complaint regarding the omission of T&C, the SP is:
  - formally reprimanded for its breach of the WASPA Advertising Rules to be read concurrently with the WASPA Code of Conduct; and
  - required to remedy such breach in this and future advertisements.

Regarding the breach of the requirement for displaying T&C, the SP is ordered to pay a fine of R1 000. In determining the amount of the fine the Adjudicator has taken into account the fact that the value of the T&C in this case would probably not have been significant.

Fines are payable to WASPA within five (5) working days of notification of this sanction. Should an appeal be lodged, the fine will be suspended until the determination of the appeal. Should the fine be upheld (in whole or in part, or increased) the fine will be payable within five (5) working days of notification of the appeal finding.