



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Buongiorno UK! In respect of its Blinko brand
Service Type	Subscription Service
Source of Complaints	Competitor
Complaint Number	#0444

Complaint

A complaint was received from a competitor of the SP. The complainant states:

The ad shows a Character, probably called Tony, driving a car with music playing in the background. The audio then says \"Join the Blinko club now. SMS Tony1 for the Mono, Tony 2 for the poly and Tony 3 for the Soundalike. Do it now....

The user is therefore prompted to purchase an individual item and is then automatically subscribed to the service.

The complainant referred to Clause 11.1.2 of the WASPA Code of Conduct, which provides:

11.1.2. Any request from a customer to join a subscription service must be an independent transaction, with the specific intention of subscribing to a service. A request from a subscriber to join a subscription service may not be bundled with a request for a specific content item.

SP Response

The SP provided the following response:

I've reviewed the advert again and it seems to me that we are in no way misleading or bundling.

I attach a copy of the ad for your perusal.

Per my previous mail the advert does NOT advertise any tone; it simply states join the weekly ringtone club, for R5 per week you will receive a ringtone.

We ask the consumer what type of tone they would like to receive.

The ringtone and/or character is not named in the ad. Tony does NOT refer to any content. No "Tony" songs exist and/or are sent and therefore this is not bundling.

I trust that this assists.

As I mentioned in my previous mail, the ad has been signed off by Vodacom and Cell C.

Adjudicator's Decision

The Adjudicator reviewed the advertisement in question as well as testing the SP's service.

The complainant made no reference to the WASPA Advertising Rules and as such, no possible breach of the Advertising Rules has been considered. The advertisement that is the subject of this complaint is capable of improvement, however it is not minor improvements to the advertisement that the complainant has raised. Instead it is an allegation of bundling "an individual content item" with a subscription service. There is no "individual content item" that can possibly be perceived to be advertised by any person.

As such, the complaint was not upheld.

While competitor complaints certainly do have a place in the WASPA Code of Conduct process, the Adjudicator noted that frivolous complaints of this nature are a waste of WASPA's resources.