



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Mica Networks
Information Provider (IP) (if any)	K2 Media Ltd t/a DB Mob Entertainment
Service Type	Content services
Source of Complaints	Competitor
Complaint Number	00597
Date received	19 October 2006
Code of Conduct version	4.6

Complaint

The complaint was submitted to WASPA via its website on 19 October 2006 and relates to a DB Mob print advert which appeared in People magazine during the week 17 October 2006. The complaint referred to the alleged use by the information provider of a Premium Rated helpline number without the pricing being indicated next to the given number. The complainant also highlighted that the number in question was an international number resulting in costs higher than those normally associated with premium rated numbers in South Africa.

The complainant cites 5.3.6 of the advertising rules.

SP Response

An e-mail response was received by the Secretariat from the Service Provider on 27 November 2006 as follows:

“Our client has come back and has admitted that they should have put in the cost for the international number. It was of vital importance for them to give a customer care

number and they did not take into account that there would be such high costs associated to the number.

The customer will change there number to a local number shortly and they are grateful that this has been brought to their attention.”

Sections of the Code considered

The code

6.2. Pricing of services

6.2.1. All advertised prices must include VAT.

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 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.

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

6.2.6. Unless otherwise specified in the advertising guidelines, the name of the WASP or the information provider providing the service must appear in all advertisements for premium rated services.

6.2.7. For menu-driven services such as USSD, the price for the service must be clearly stated at the top of the first page. Any additional costs associated with specific menu selections must be clearly indicated.

The advertising rules

5.3.6 Contact Details

Provide website address AND helpline number / shortcode. Contact details must be displayed as part of T & C details.

- *Advertisers must include a helpline number or a working website address that has direct applicability and linkage to the advertiser.*
- ***If an IVR or SMS system using any premium rated or VAS rates channel provided by or through a licenced mobile operator is used for contacting the advertiser or as a helpline access , then the fact that this access number is Premium Rated or uses VAS rates must be indicated next to the access number.***

E.g. "Helpline 08x-xxx-xxxx. VAS rates. Free Minutes do not apply".

Decision

The information provider's terms and conditions appear at the foot of the advert. In the first line of the terms and conditions, it is stated, in respect of the content services, that **"Premium rates apply. Free SMS's do not apply."**

In the final sentence in the terms and conditions it is stated that **"Support line available between 9am to 5pm GMT, Mon to Fri – 0044 1539 735588."**

The support line number in question is a direct telephone line to the information provider in the United Kingdom and is not used in conjunction with an IVR or SMS system.

On my interpretation of the wording of 5.3.6 of the advertising rules, the information provider must comply with the following:

1. Provide a working website address, helpline or shortcode number where it can be contacted directly; and

2. If such number is used in conjunction with an IVR or SMS system, and Premium or VAS rates apply, then a statement that such rates are applicable must be displayed alongside the helpline number.

As an aside, a contradiction in the wording of 5.3.6 of the advertising rules should be noted. It is initially stated in 5.3.6 that a website address AND helpline number /shortcode should be displayed. However, in the further explanatory wording of the sub-rule, it is stated that a helpline number *OR* working website address that has direct applicability and linkage to the advertiser must be included.

If it is the intention of the Secretariat that a working website address and helpline number or shortcode is to be displayed, then the information provider has failed to comply with the rules. However, as this is not part of the complaint, I have raised it only as an aside.

The rules are also silent on the question of an international number being used for support.

In the present complaint, the information provider has provided a helpline number in terms of 5.3.6 of the rules. As the number in question is not used in conjunction with a IVR or SMS system, nor is there any evidence that Premium or VAS rates are applicable as alleged by the complainant, I cannot find that there has been any breach of the code of conduct or advertising rules on the grounds as set out in this complaint.

The complaint is accordingly not upheld.

