

REPORT OF THE ADJUDICATOR

1 March 2007

Member	WorldPlay (Pty) Ltd
Service Type	Communication

COMPLAINT NO. 0635

Complaint date:	6 November 2006
Code Version:	Code v4.7 and Rules v1.6
Complainant:	Competitor

1 The Complaint

The Complaint is regarding the alleged failure of the Member to display the price with each instance of the premium number display on its website.

2 Complainant's allegations

The Complainant alleges that the Member has breached 6.2.5 of the Code in that:

"The short code 31009 appears without the proper display of the appropriate pricing. The short code 31009 is permanently displayed on the Top right hand side of the screen (URL: <http://www.zero9.co.za>)"

2.1 Member's response

The Member responded to the Complaint on 29 November 2006. It states:

"2. We have carefully considered the complaint lodged by Richard Cimardi, and it is our opinion that the complaint is vexatious in that this is not the first complaint that Mr Cimardi has lodged with the association and a perusal of your records will indicate that he has lodged numerous complaints against various other players in the industry. In our opinion this complaint, and in fact all other complaints lodged by Mr Camardi, were not lodged by Mr Cimardi in good faith, but rather as a tool to seek revenge for a decision that was taken by the association against him. As such we are of the opinion that this complaint was lodged in bad faith and that Mr Cimardi is being disingenuous in his representations against us.

"3. Furthermore, whilst paragraph 6.2.5 of the WASPA rules of conduct are quite clear, as Mr Cimardi quite correctly points out, variable charges apply to the short code 31009 and as such we cannot state what the price of the premium rated service is because the price varies according to the service requested. We are however considering Mr Cimardi's suggestion regarding the insertion of wording to that effect and will include same should we deem this appropriate or should the association deem it appropriate."

3 Provisions of the Code considered

6.2.5 of the Code which provides:

"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."

4 Decision

I have viewed the website complained of and it is correct that the price does not appear with the premium number of the top right hand corner of the home page.

The wording of the 6.2.5 of the Code is unambiguous and the Member has contravened 6.2.5 of the Code.

5 Sanction

The motives for the complaint are only relevant if the complaint has no merit. The infringement of the Code is a minor infringement and, having viewed the other pages of the website and the various offerings, it does not seem that there is any risk of consumers being confused or misled as to the pricing of the services by the omission of the pricing on the top right hand corner of the home page. The consumer is made aware of the pricing prior to purchase. There is also no direct link from the premium number on the top right hand corner of the website home page.

No sanction is to be imposed on the Member. The Member is however be required to insert the wording "charges vary according to the service requested" or wording similar to that effect wherever the premium number appears on its website within 10 days of notice of this adjudication.

DATED THIS 1st DAY OF MARCH 2007