



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Strike Media
Information Provider (IP) (if any)	Akazoo
Service Type	Subscription
Source of Complaints	Anonymous
Complaint Number	10447
Date received	8 September 2010
Code of Conduct version	9.0

Complaint

An anonymous complainant lodged a complaint regarding a web-based promotion of an MP3 music subscription service offered by the IP in South Africa.

The complainant alleges that the promotion does not comply with sections 11.1.3 and 11.1.4 of the WASPA Code of Conduct in that: a) no examples of the content provided as part of the service are given; and, b) the services are not prominently and explicitly identified as “subscription services” in the advert.

It appears that the complainant has quoted the wrong sections of the Code and is, in fact, referring to section 11.1.1 and 11.1.2. For the purposes of this report, I have corrected this mistake and adjudicated the complaint on the basis of sections 11.1.1 and 11.1.2.

SP's response

The SP provided a screenshot of a different landing page which advertised Java games available for download. The advert includes a reference to “subscription benefits” and provides 4 (four) examples of content that is available for download.

It is noted that the SP has not provided a URL for this particular web page. The complainant has provided a screenshot of the correct web page, advertising mp3 music downloads accessed at the URL:

http://www.akazoo.co.za/clpsv2?msisentry.aspx?application=v2_akazoomp3plain&uiculture=en-za.

Sections of the Code considered

11.1.1. Promotional material for all subscription services must prominently and explicitly identify the services as “subscription services”. This includes any promotional material where a subscription is required to obtain any portion of a service, facility, or information promoted in that material.

11.1.2. An advert for a content subscription service which includes examples of the content provided as part of that service must include at least two examples of that content clearly displayed, except as provided for in 11.1.3.

Decision

The subscription service in question and the promotion appearing on the landing page at the URL:

http://www.akazoo.co.za/clpsv2?msisentry.aspx?application=v2_akazoomp3plain&uiculture=en-za is the subject of 2 (two) further complaints (see 11065 and 11096) which have both been adjudicated by me.

Based on the screenshot provided by the complainant, there appears to be a reference to “*subscription benefits*” in the body of the page, but no express identification of the service as being a subscription service.

Reference is also made to the service being subscription-based in the terms and conditions found at the bottom of the webpage.

However, section 11.1.1 clearly states that the services being promoted must be explicitly identified as “*subscription services*”. The purpose of the section is clear and the proposed wording must be followed. I therefore find that there has been a contravention of section 11.1.1 of the Code and the complaint is accordingly upheld in this regard.

It is also evident from the screenshot provided by the complainant that no examples of the music available for download are provided on the landing page. Section 11.1.2 of the Code is therefore not applicable.

Sanction

I have noted that one previous, but unrelated, complaint has been upheld against the SP.

I have also taken into account the subsequent complaints made against the SP in relation to this particular promotion and service, and the SP’s advice that the relevant landing page was taken down after this complaint was received, and that the IP is currently revisiting the wording of the relevant website.

With this in mind, the SP is formally warned to ensure that the IP amends the wording of all web-based and other promotional material for its subscription services which are offered to South African consumers, to explicitly identify such services as being “subscription services”.