



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Strike Media
Information Provider (IP) (if any)	Akazoo
Service Type	Subscription
Source of Complaints	Anonymous
Complaint Number	11065
Date received	9 November 2010
Code of Conduct version	10.0

Complaint

An anonymous complainant lodged a complaint via the WASPA website against the SP relating to certain web adverts relating to the SP's Akazoo music subscription service.

The complainant alleges that the web-based advert accessed at the URL: http://www.akazoo.co.za/clpsv2?msisdentry.aspx?application=v2_akazoomp3plain&uculture=en-za, does not comply with sections 11.1.1 of the WASPA Code of Conduct in that the service is not prominently and explicitly identified as a "subscription service" in the advert.

The complainant also alleges that section 11.5.1 has not been complied with.

SP's response

The SP has stated that, to the best of its knowledge, and as confirmed by the IP, the relevant webpage accessed from this URL has not been in use since September 2010 after a previous complaint was lodged (see complaint 10447). Since then, all web-based advertising has been modified to include the phrase “*subscription and service*” in place of just “*subscription*”.

With regard to the alleged breach of section 11.5.1, the SP states that the relevant notification message is controlled by Strike Media’s own platform which has been tested. According to the SP the following welcome message is delivered:

“WELCOME: YOU ARE SUBSCRIBED TO AKAZOO FROM INTERNETQ. COST R30.00/WEEK. FOR HELP CALL 0822342412. TO UNSUBSCRIBE, SMS STOP AKAZOO TO 41698 (STD RATE).”

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.

11.5.1. Once a customer has subscribed to a subscription service, a notification message must immediately be sent to the customer. This welcome message should not be mistaken for an advert or marketing message. The customer may not be charged for this message.

Decision

The SP has, by its own admission, confirmed that the web-based advert accessed from the URL:
http://www.akazoo.co.za/clpsv2?msisentry.aspx?application=v2_akazoomp3plain&uculture=en-za was previously not compliant with section 11.1.1. This has subsequently been addressed by the SP. However for the sake of completeness, the complaint is upheld in this regard.

The SP states that a properly worded notification message for this service is set up on its platform. As the complainant has chosen to remain anonymous, it is not possible for the SP to provide logs confirming that the relevant message was sent in this instance. In light of the foregoing, I am unable to make a finding regarding the alleged breach of section 11.5.1 of the Code.

Sanction

I have taken into account the previous complaint against the SP relating to the same web-based advert which was upheld (see complaint 10447), as well as the SP's assurance in its response to this complaint that the wording of the advert has since been amended to comply with section 11.1.1.

The SP is ordered to provide the WASPA Secretariat with a list of all relevant URL's for the web-based advertising of the IP's subscription services in SA within 10 (ten) days of receipt of notice of this report, to enable the WASPA Monitor to check and confirm that such advertising is compliant with section 11.1.1.