



## REPORT OF THE ADJUDICATOR

<b>WASPA Member (SP)</b>	TIMw.e. New Media Entertainment / Mira Networks.
<b>Information Provider (IP)</b> (if any)	
<b>Service Type</b>	Subscription
<b>Source of Complaints</b>	Anonymous
<b>Complaint Number</b>	11922
<b>Date received</b>	11 February 2011
<b>Code of Conduct version</b>	10.0

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### Complaint

The complainant states that they clicked on a banner advert on the SP's website: [www.blingcheese.com/graphics/1/rihanna.htm](http://www.blingcheese.com/graphics/1/rihanna.htm) stating that "your IP address was chosen as a candidate to win". After clicking on the link provided the complainant was redirected to a landing page for a subscription service.

The complainant alleges that this is a breach of the WASPA code as a subscription service is being promoted under the guise of a competition.

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### SP's response

The SP responded by stating that it did not exercise any control over the advert placed by the advertiser on the website in question. Upon receiving notification of the complaint, the SP instructed the advertiser to remove the banner. This was done immediately and confirmation was sent to the WASPA Secretariat.

**Complainant's response**

The complainant believes the SP should still be held accountable as it derived revenue from the infringing advert.

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**Sections of the Code considered**

11.2.1. Customers may not be automatically subscribed to a subscription service as a result of a request for any non-subscription content or service. Customers may not automatically be subscribed to a subscription service without specifically opting in to that service.

11.2.2. 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 a request for a specific content item and may not be an entry into a competition or quiz.

11.2.3. Notwithstanding the above clause, it is permissible for a customer to be included as a participant in a promotional draw or competition as an additional benefit to being a subscription service customer. In such a case, it must be clear to the customer that the promotional draw or competition is ancillary to the subscription service, and the process of joining the subscription service may not be disguised as an entry into a competition.

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**Decision**

The advert in question is misleading and contravenes 11.2.2 of the WASPA Code of Conduct. The SP has acknowledged this in its response.

Section 11.2.3 is also not applicable to this advert and/or service.

However, I am satisfied that the SP does not exercise any control over the approval, design and placing of the advert in question. I am also satisfied that the SP took immediate steps to cause the infringing advert to be removed from its site.

I have noted the complainant's comments about the advertising revenue generated from the advert in question. However this is not relevant to the question of whether the SP is responsible for the harm that could be caused to consumers by this advert.

The complaint is accordingly dismissed.

The SP is requested to provide the WASPA Secretariat with the identity of the third party advertiser if possible.