



REPORT OF THE ADJUDICATOR

Complaint reference number: 12696

WASPA member(s): SABC Mobile (IP) / Mybeat Interactive (SP)

Membership number(s): 1018 and 0036

Complainant: Monitor

Type of complaint: Subscription Service

Date complaint was lodged: 2011-04-18

Date of the alleged offence: 2011-04-18

Relevant version of the Code: 10.0

Clauses considered: Clause 4.1.1

Relevant version of the Ad. Rules: Version 2.3 clause 3.2

Related cases considered:

Complaint

On 9 March 2011 the Monitor filed the following complaint: The Jack Daniels live read is not communicating the cost of entry when asking listeners to the SMS the short code.

The monitor asked the SP to revise urgently and to confirm in order to avoid adjudication. The SP confirmed that it had been revised.

However, the live read was broadcast again on 15 April 2011 and the problem had still not been rectified notwithstanding an undertaking from the WASP to rectify the problem.

Service provider's response

The SP referred the matter to the IP to respond. The IP responded by stating that they request this not be considered a repeat offence due to the fact that the second airing of the material was merely a song snippet and that they rely on their SP to

ensure compliance with the Code which for various reasons did not happen in this instance but that this will be addressed going forwards to ensure compliance.

They further stated that they have subsequently withdrawn the material.

Sections of the Code considered

Code Section 4.1.1 of the Code: Members must have honest and fair dealings with their customers. In particular, pricing for services must be clearly and accurately conveyed to customers and potential customers.

Ad Rules 3.2 relating to voice over requirements and costs.

Decision

The SP referred WASPA to the IP who responded in this matter and agreed to rectify the issue following on the informal complaint. However, notwithstanding this, the same material was once again broadcast post alleged rectification. The IP responded on being notified of the formal adjudication process that it was merely a song snippet and not the same material that was flighted.

The audio file provided is the entire advert and not just the song. It references the fact that an SMS must be sent to the short code to enter but does not detail the cost of such SMS.

Accordingly I find that the Code and Ad Rules have been breached.

Sanctions

The IP must remove the live read immediately if same has not been done already.

The IP is fined the sum of R2500 for repeated breaches of the Code and Advertising Rules notwithstanding an attempt by the monitor to resolve the matter informally. This sum is payable within 5 working days of receipt of this decision.