



REPORT OF THE ADJUDICATOR

Complaint reference number:	15967
WASPA member(s):	FROGGIE (IP)
Membership number(s):	(IP) (1194)
Complainant:	Public
Type of complaint:	Subscription
Date complaint was lodged:	2012-01-05
Date of the alleged offence:	2011-12-21
Relevant version of the Code:	11.6
Clauses considered:	3.3.1, 4.1.1, 4.1.6, 11.1.2, 11.5.1, 14.9.4, 14.9.6 & 14.9.7
Relevant version of the Ad. Rules:	Not applicable
Clauses considered:	N/A

Related cases considered:

Complaint

The Complainant alleged that he came across a website of the IP that allegedly lured consumers into subscribing to services under false pretences; something the Complainant felt contradicted the Code.

Information provider's response

A verbatim copy of the IP's response is provided below:

"This campaign and shortcode belong to our client PI2006, we have informed them of the incident and they have removed it from promotion and the internet. Apologies for any inconvenience. We have also checked the cell number of the complainant and there have never been any active subscriptions on our services on that number."

Sections of the Code considered

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

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.

Decision

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her. The Adjudicator has taken note of the Complaint and the IP's subsequent response.

In this matter the IP did not deny any of the allegations lodged but merely indicated that it had informed its client of the irregularities, whereafter the alleged contravening service was removed.

This by implication serves as an admission to the alleged contravention of the Code.

The mere fact that the Complainant himself did not subscribe to the service, does not deter from the fact that potential customers could have been misled by the alleged breach.

Without the IP therefore having rebutted the claim by the Complainant, the Adjudicator has no alternative but to find the IP in breach of sections 4.1.1 and sections 11.2.2.

The Complaint is upheld.

Sanctions

In determining an appropriate sanction, the following factors were considered:

- The prior record of the IP with regard to breaches of the relevant sections of the Code of Conduct; and
- The IP's subsequent response.

The IP is to be commended for its prompt response.

The IP is formally reprimanded for its breach of section 11.2.2 and is fined R 25 000-00 for its breach of section 4.1.1, of which the full amount is suspended for 6 months.