



REPORT OF THE ADJUDICATOR

Complaint reference number:	16570
WASPA member(s):	Netsmart (SP)
Membership number(s):	0126
Complainant:	Public
Type of complaint:	Advertising
Date complaint was lodged:	2012-03-02
Date of the alleged offence:	N/A
Relevant version of the Code:	11.6
Clauses considered:	11.1.1; 11.1.6; 4.1.1; 4.1.2; 6.1.1; 6.2.2; 6.2.3; 6.2.4; 6.2.8 & 14.3.14
Relevant version of the Ad. Rules:	2.3
Clauses considered:	12
Related cases considered:	N/A

Complaint

The Complainant in this matter alleged that the IP in this matter utilises inappropriate ways in soliciting subscription services.

In reply to the IP's initial response the Complainant was adamant that the IP must take responsibility for its affiliated marketing partners.

Information provider's response

The SP in return furnished a response whereby it supplied attachments of the relevant banners utilised. It further contended that the number provided by the Complainant was not registered as a subscription user on its database.

Sections of the Code considered

11. Subscription services

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.

11.1.6. Where possible, billing for a subscription service must indicate that the service purchased is a subscription service.

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.

4.1.2. Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

6.1.1. In addition to the provisions listed below all members are bound by the WASPA Advertising Rules, published as a separate document.

6.2.2. All advertisements for services must include the full retail price of that service.

6.2.3. Pricing must not contain any hidden costs. Where applicable, pricing for content services must include the cost of the content and indicate any bearer costs that may be associated with downloading, browsing or receiving that content.

6.2.4. Pricing contained in an advertisement must not be misleading. If multiple communications are required to obtain content, then the advertised price must include the cost for all communications required for that transaction. A clear indication must always be given that more premium messages are required.

6.2.8. Pricing on any promotional material must use one of the following generally accepted formats for prices in Rands: "Rx" or "Rx.xx".

14.3.14. On the basis of the evidence presented, the adjudicator will decide whether there has been a breach of the Code. Each case will be considered and decided on its own merits.

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 SP's subsequent reply.

Pivotal to the outcome of this decision was a request by the Adjudicator to the Secretariat for more relevant information from the Complainant.

After 7 days of no response from the Complainant, the Secretariat informed the Adjudicator of same.

The Adjudicator in this matter therefore only had access to evidence provided by the SP in this matter, evidence that does not in the opinion of the Adjudicator reveal any breaches of the Code as alleged by the Complainant.

Without having any further information to prove otherwise, the Adjudicator, on the basis of evidence received, has no alternative but to dismiss the Complaint.

The Complaint is therefore not upheld and subsequently dismissed.