

REPORT OF THE ADJUDICATOR

WASPA Member (SP) Sybase 365 (formerly Mobile 365)

Information Provider (IP)

(if any) Blinck Mobile Limited

Service Type Subscription service

Source of Complaints Mr G Perkins, Exact Mobile

Complaint Number 1665

Date received 3 July 2007

Code of Conduct version 5.2

Complaint

The complainant, a competitor of the SP, has referred to a television advertisement which shows the music video to the track by the artist Nelly Furtado entitled "Say it Right". The complainant is of the view that the advert contravenes section 11.1.2 of the WASPA Code of Conduct in that the advert prompts the viewer to SMS "music" to shortcode 31631 to get the advertised track and the viewer is then registered for a subscription service.

The complaint also points out that the subscription service in question is charged at R60.00 per week.

SP Response

The SP responded formally on 13 July 2007 to the complaint. The SP enclosed submissions by the IP, Blinck Mobile Ltd, in response to the complaint. The IP is also a member of WASPA.

Wireless Application Service Provider Association

Report of the Adjudicator

Complaint #1665

In its response, the IP refers to the content of its television adverts for this service as well as to the confirmatory messages sent to subscribers and argues that it is made very clear to the viewer that SMS'ing "music" to the shortcode as advertised will result in the viewer joining a subscription service.

Sections of the Code considered

Section 11.1.2 and associated Advertising Rules relating to television adverts for subscription services.

Decision

I have considered the response received from the IP and I am satisfied that the television advert in question is compliant with the Code and Advertising Rules. In particular, I am of the view that the advert makes it clear to viewers that sending an SMS to the advertised shortcode will result in them joining a subscription service. The fact that one track is featured during the advert does not detract from the text notifications on screen and the associated voice-over.

The complaint is accordingly dismissed.