



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	Opera Telecom (Pty) Ltd
Information Provider (IP):	DoubleMT Interactive S.L.
Service Type:	Subscription
Complainant:	WASPA Monitor
Complaint Number:	20797
Code Version:	12.1
Advertising Rules Version:	Not applicable

Complaint

The complaint is against an advertisement for Kulaville's Farm Frenzy game.

The complaint is essentially two-fold:

That the billing information / fact that it is a subscription service is only visible if you scroll;

That there are not two examples of the content unless you scroll.

The Media Monitor was not satisfied with the changes made.

Service provider's response

The IP responded and undertook to make certain changes.

However, it questioned that the Media Monitor's standard tests seem to relate to the BlackBerry screen, pointing out that the scrolling experience will be different in different screens.

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.

6.2.6. The price for a premium rated service must be easily and clearly visible in all advertisements. The price must appear with all instances of the premium number display.

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.

11.1.2. An advert for a content subscription service which includes examples of the content provided as part of that service must include at least two examples of that content clearly displayed, except as provided for in 11.1.3.

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**Pricing information**

While I agree with the IP that it is not ideal that the Media Monitor is only testing using one handset, I also believe that the BlackBerry screen is a fairly standard size and is not inappropriate as a test case.

I therefore agree that some reference to the subscription nature of the service should be visible from the initial portion of the screen that most consumers are likely to see. I

do not think that the R7 / day information necessarily needs to appear here, but the word “subscription” should appear to alert the consumer to the fact that they need to scroll the find the pricing information.

This could be effected by moving the pricing information up, or by inserting the word “subscription” into the initial copy, or in a number of other ways.

I therefore find that the current layout is in breach of Clause 11.1.1.

Content

On the issue of two items of content, I disagree with the Media Monitor.

This advertisement is for ONE game – the Farm Frenzy game, and simply gives examples of other games that are available. It is my understanding, however, that this subscription will only get you Farm Frenzy. It is therefore not the type of service – such as a song service, or wallpaper service – where the subscriber will get multiple content and therefore needs a fair example of that content.

The advertisement is therefore not in breach of Clause 11.1.2.

Sanctions

I have found the IP in this matter to be co-operative, and I do not believe that the breach is *mala fide* in nature.

I therefore order that they amend their advertising in line with the above, and award no further sanctions.

I also strongly encourage them to carry this principle forward with other campaigns to avoid stringer sanctions at a later date.