



REPORT OF THE ADJUDICATOR

Complaint reference number:	26416
WASPA member(s):	Liberty Entertainment Limited (IP); Basebone (Pty) Limited (SP)
Membership number(s):	1477; 1344
Complainant:	WASPA Media Monitor
Type of complaint:	Misleading advertising campaign
Date complaint was lodged:	7 May 2015
Date of the alleged offence:	7 May 2015
Relevant version of the Code:	13.6
Clauses considered:	5.1, 5.5, 15.4
Related cases considered:	26420

Complaint

1. On 6 May 2015, the WASPA Media Monitor conducted a test on the IP's SMS advertising campaign using short code 30014.
2. The SMS read as follows:

"You have one Private photo invite. Open here now: <http://www.lcz.tv/m/f3e88c4a/9fpdYt> (FREE MSG) 30014 R7/day subscription opt-out dial 0110621424.
3. The Monitor clicked on the link provided in the SMS and was directed to a landing page where they clicked on the 'Confirm' call to action button.
4. They were then directed to a page that stated that they would receive a SMS with a URL link which they needed to click on.
5. The stated SMS was received and the Monitor clicked on the given URL link. They were then redirected back to the previous landing page.

6. No further messages or communications were received and the Monitor was not able to complete the procedure to access the private photo invitation in the original SMS received.

IP's response

7. The IP argued in its response that the complainant did not state in its complaint when the given URL was accessed and the time period between receipt of the original promotional SMS and accessing the link.
8. According to the IP's logs, the message was received on 21 April 2015 but the link was only accessed on 4 May 2015, i.e. 13 days after receipt of the original message.
9. The IP alleges that the link would have been functioning had it been accessed on the date that the original promotional message was sent. However, the promotion had already been withdrawn by the date the link was accessed.
10. The IP denied that it had breached any of the provisions of the Code.

Complainant's reply

11. The Monitor replied to the IP's response by stating that they are often alerted to SMS campaigns by competitors who forward such messages to them. It is therefore very possible that such a message would have been received by the Monitor 13 days after it ran.
12. If the campaign was no longer active, then it should not have been so easily accessed, and should have been removed.
13. It is quite possible that a consumer would try accessing the service, even if an SMS was received 13 days before.
14. If the campaign is only live for 48 hours, then the average consumer receiving that message should be advised of the 48 hour window period.
15. The Monitor suggested that the relevant landing page be removed and the complaint be closed.

IP's further response

16. The IP submitted a further response where it again took issue with the delay in the Monitor receiving the promotional SMS and then accessing the link.
 17. They also repeated the statement from their previous response that they protect consumers by withdrawing campaigns and restricting access to the opt-in process if not accessed within a reasonable time frame.
 18. Since this formal complaint was issued, the IP had withdrawn access to any campaign element 7 days following the sending of any promotional SMS.
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Sections of the Code considered

19. The following sections of the WASPA Code were considered:
 - 19.1 Section 5.4 - Members must have honest and fair dealings with their customers.
 - 19.2 Section 5.5 - Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.
 - 19.3 Section 15.4 - A member must not require that a customer join a subscription or notification service in order to claim an existing reward, to be able to redeem existing loyalty points or to claim a similar benefit. (Example of incorrect marketing: to claim your prize, join this service.)
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Decision

20. I agree with the Monitor that any inactive promotional campaign needs to be disabled and all access to any links or landing pages needs to be disabled.
 21. The complaint that the IP has contravened section 5.4 and 5.5 is therefore upheld.
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Sanctions

22. It appears that the IP has now implemented steps to disable access to all its inactive promotional campaigns within 7 days.

23. I am satisfied that the IP has responded properly to the complaint and no further sanction needs to be made.