

WASPA Member (SP)	Cointel
Information Provider (IP)	N/A
Service Type	Incorrect Advertising
Source of Complaint	WASPA Monitor
Complaint Number	#3017
Code of Conduct Version	5.3
Advertising Rules Version	1.6 (final)
Date of Adjudication	14/01/2008

Complaint

In a newspaper advertisement placed by the SP, the following were noted by the Complainant:

- “1. Cost not placed close enough to the short code 39117;
 2. Font size of costs not 9 points - too small and difficult to read.”
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SP Response

No response was received from the SP despite numerous attempts by the WASPA Secretariat to the last notified contact details of the SP. The only response that was eventually received was a mere indication that such person was not dealing with advertising complaints. This was not considered by the Secretariat as a sufficient response.

Sections of the Code considered

The following sections of version 5.3 of the Code of Conduct were considered:

6.1. WASPA advertising rules

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

Sections of the Advertising Rules considered

4.2.2 COST OF ACCESS DISPLAY RULES:

4.2.2.1 Formatting Of Access Cost Text:

Non-Classified Advertisements

- o The size of the text showing the cost of access must be in 11 point font size

This is 11 point Arial Font

- o The access cost text must be in a non-serif font, preferably 'Arial' font.
- o All access cost information must be placed horizontally.

Classified Advertisements:

This applies to Classified Advertisements - ie advertisements with unique Content access code/numbers displayed in the classified portion of the body of a newspaper, or which are in classified-type format within the newspaper.

- o The size of the text showing the cost of access must be in 9 point font size

This is 9 point Arial Font

- o The access cost text must be in a non-serif font, preferably 'Arial' font.
- o All access cost information must be placed horizontally.

4.2.2.2 Position Of Cost Text:

For each unique access number, the full and final cost of the access must be displayed immediately below, or above, or adjacent to the unique access number or Content access code in a non-serif font, even if there is a uniform cost of access displayed throughout the newspaper and/or a series of pages allocated to one advertiser.

If multiple offers are made in an advertisement (spread across one or more pages) and the cost differs with each offering, each offering must clearly show the individual costs, again immediately below, or above, or adjacent to the unique access number in a non-serif font

Decision

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her. In this particular instance, the WASPA Secretariat has made no less than six attempts in its efforts to elicit a response from the SP at the contact details last provided by it.

The Adjudicator is therefore satisfied that the SP had more than enough time to file a response as is required by section 13.3.4 of the WASPA Code of Conduct. In the absence of the SP raising such a response, the Adjudicator has to assume that the SP, as is indicated in section 13.3.5 of the WASPA Code of Conduct, does not wish to respond to the claim. In light of these circumstances the Adjudicator has no alternative but to accept the uncontested version of the Complainant.

The Complainant stated that the incorrect font was used and that the cost was not displayed in font size 9. After viewing the advertisement in dispute the Adjudicator is satisfied that the font size is indeed smaller than the required font size 9 as is illustrated in the advertising rule's illustrative example as well as indicated in its section 4.2.2.1.

The Complainant further stated that the cost text was not placed close enough to the short code. After viewing the advertisement, the Adjudicator is satisfied that the cost text was not placed correctly as is illustrated in the advertising rule's illustrative example as well as indicated in its section 4.2.2.2.

It is therefore held that the SP **has breached** sections 4.2.2.1 and 4.2.2.2 of the WASPA Advertising Rules. Section 6.1.1 of the WASPA Code of Conduct states that its members are bound by these rules.

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

- The prior record of the SP with regard to breaches of sections 4.2.2.1 and 4.2.2.2 of the WASPA Advertising Rules;
- The failure of the SP to respond to the Complaint; and
- The continued placement of the said advertisement even after the complaint has been lodged.

The SP is fined the sum of R2 500, 00 payable to the WASPA Secretariat within five (5) days of notification hereof.

The SP is further ordered to amend its advertising in order to comply with the WASPA Advertising rules before further placement and subsequently instructed to withdraw any current advertisements which are not complying with the said rules (including the disputed advertisement in this matter).
