

WASPA Member (SP)	MyBeat
Information Provider (IP)	N/A
Service Type	No Cost Indicated
Source of Complaint	WASPA Monitor
Complaint Number	#3078
Code of Conduct Version	5.7
Date of Adjudication	19/02/2008

Complaint

The Complainant raised a complaint detailing the SP's failure in supplying costs. The detailed description of the Complaint read as follows:

"TAF and METAR messages via SMS:

SMS the word taf or metar followed by the four letter ICAO location indicator of the Aerodrome, to the number 36370. To receive a TAF for Durban International, type: taf fadn. A METAR for O.R. Tambo will be metar fajs. You will receive the TAF or METAR of the aerodrome that you requested.

NO COST OF ENTERING COMMUNICATED. (SMS code website reveals R5-00 per sms)."

SP Response

The SP responded by admitting such breach but iterated that it was not due to any malice on their side. In its initial response it responded as follow:

"Thanks for the email informing us of the failure to advertise the rate on our short code (36370).

I have informed the offending client of this complaint – it seems they are advertising our short-codes without including the relevant rates despite very clear terms in our purchase order as well as a link to the WASPA site (<http://www.waspa.org.za/code/index.shtml>) in our commercial

documentation.

I am waiting on the response from our client and I anticipate it coming through today or tomorrow however in the interim, please be sure that we treat this complaint as serious and have done everything in our power to ensure they begin advertising the rates on the next run of ad material. I have asked for a copy of that material and informed them that if the tariff is left off again, we will suspend their services immediately so as to ensure there are no further breaches of WASPA conduct terms.

I will come back to you as soon as client has formally responded.”

In a further response by the SP it copied the Secretariat with a detailed letter wherein it addressed its client by making them aware of the seriousness of the matter. Its client responded by stating it was due to the actions of a junior staff member who was not aware of the requirements.

Sections of the Code considered

The following sections of version 5.7 of the Code of Conduct were considered:

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

Sections of the Advertising Rules considered

The following sections of version 1.6 of the Advertising Rules were considered:

11.2.1 Text clearly Showing Access Cost and T&C for each service or Content type offered.

Decision

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her.

In this matter the SP has admitted that its client has omitted from displaying the costs associated with its advertisement that was sent via SMS to the Complainant.

It is therefore held that the SP **has breached** section 6.2.2 of the WASPA Code of Conduct read with section 11.2.1 of the WASPA Advertising Rules.

The Complaint against the SP is upheld.

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

- The prior record of the SP with regard to breaches of section 6.2.2 of the WASPA Code of Conduct as well as section 11.2.1 of the WASPA Advertising Rules; and
- The facts surrounding the breach as reflected in the SP's response;
- The quick response and subsequent follow-up by the SP.

The SP is fined R5 000, 00 for its breach of clause 6.2.2 of the Code read with section 11.2.1 of the Advertising Rules of which the whole amount is suspended for a period of six months from date hereof.

The SP is further ordered to ensure that its clients are informed of the WASPA Code of Conduct, its Advertising Rules and the subsequent consequences it might carry.
