

WASPA Member (SP)	Marketel
Information Provider (IP)	N/A
Service Type	Incorrect Advertising
Source of Complaint	WASPA Monitor
Complaint Number	#3314
Code of Conduct Version	5.7
Advertising Rules Version	1.6 (final)
Date of Adjudication	03/04/2008

Complaint

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

"Misleading -"Dial Free"

- Does not indicate that you ****can't**** use your free minutes when calling 084 198 0010;
- Does not indicate you ***will*** be charged VAS rates when calling 084 198 0010"

SP Response

In its response the SP acknowledged the Complaint and accepted that a breach did indeed occur. It went further to state that it is doing what it can to have better control over its clients' advertising activities but that it will still take a while for them to achieve full control over such activities. It further iterated that the advertisement has since been taken out of circulation.

Sections of the Code considered

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

6.2.4 Pricing contained in an advertisement must not be misleading. If multiple communications are required to obtain content, then the advertised price must

include the cost for all communications required for that transaction. A clear indication must always be given that more premium messages are required.

Sections of the Advertising Rules considered

5.3.12 PRICING: Show component, bearer and total cost // Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised.

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 SP admitted breach of the abovementioned sections. The Adjudicator, after reviewing the said advertisement also came to the same conclusion.

It is therefore held that the SP **has breached** sections 6.2.4 of the WASPA Code of Conduct and 5.3.12 of the WASPA Advertising Rules.

The Complaint is upheld.

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

- The prior record of the SP with regard to breaches of sections 6.2.4. of the WASPA Code of Conduct and 5.3.12 of the WASPA Advertising Rules;
- The efforts on behalf of the SP to rectify further breaches; and
- The withdrawal of the said advertisement from circulation.

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.
