



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Integrat
Information Provider (IP) (if any)	
Service Type	TV Advertising
Source of Complaints	WASPA Monitor
Complaint Number	#3589
Date received	28 February 2008
Code of Conduct version	5.7

Complaint

The WASPA Monitor alleged breaches of sections 2.2.2 and 2.2.3 of the WASPA Advertising Rules in that the type font in the cost display box in the right hand corner and the terms and conditions in a television advertisement were too small.

The Code clearly state 18 points for the price block and 15 points for the T&C's (or at least legible)

SP Response

The SP filed a comprehensive Response which, although not always to point, is reproduced in full below:

"We have dealt with this complaint in a methodical way duly illustrating compliance.

We also hereby offer in accordance with the decision of the adjudicator in **complaint number # 376** (which is also discussed below) and with reference to the poor quality of the exemplar of the advertisement as received by WASPA, we

have proceeded to send the video [As per link above] as presented by the content provider to yourselves for your ease of reference.

The WASPA advertising guidelines has set certain display rules for Cost and T&C information, which has been displayed in bold in this response, with our comment following thereto to illustrate the precise compliance with these guidelines.

Display of Access Cost:

Must be displayed for a minimum of 5 seconds, at each mention by an announcer or display on a screen of an access number;

- In this advertisement it is displayed throughout the advert which consist of an excess of 14(FOURTEEN) seconds.

Access costs must be displayed in number 18 point 'Zurich' font and placed in a special box or triangle in any top corner of the screen.

- The content provider has assured us that the display of the Access cost in this advertisement was 18 point 'Zurich' font.

It is further quite clear that the Access cost was displayed in a special triangle in the top right hand corner of the screen with the colour red which in addition independently catch the attention of the viewers.

If advertising a subscription service the word "Subscription" must also be placed in the Access cost box/triangle at 12 point 'Zurich' font size.

- The content provider has again assured that the display of the wording "Subscription Service" was indeed in 12 point 'Zurich' font size.

No CAPS (except for the first letter of the word) or Italics are permitted for the word "Subscription"

- The content provider placed this as required no CAPS or Italics used.

Display of T&C:

Must be displayed horizontally in 15 point (MINIMUM) 'Zurich' font.

- The content provider assured us once again that the display of the T&C was in 15 point 'Zurich' font size and the fact that it was displayed horizontally can clearly be seen even in the poor quality model.

For a minimum of 5 seconds per mention by an announcer or the display on the screen of an access number, and in a title safe area.

(The T&C text must be static and horizontal for the requisite minimum display time, changing as is necessary to show all the T&Cs in equal time proportion.

- The T&C text in this advertisement is at the bottom of the screen in a title safe area and each part of the dual T&C's are displayed for approximately 7(SEVEN)seconds each.

No scrolling of text containing any T&C's are permitted.

- There is no scrolling of the T&C in this advertisement.

No CAPS-only or Italics only text is permitted for the T&C font.

- There is no CAPS-only or Italics only text for the T&C font in this advertisement.

In view of the abovementioned it is clear-cut that the content provider has complied with the complete guidelines as shown above. We can however only submit that the font sizes are as prescribed. We have in addition roughly measured these to assist in showing that the fonts are identical to a Microsoft Word non-serif font size, when compared with the fonts as used in the complaint advertisement #3589. If this should prove not to be sufficient we shall have to be afforded more time to collect the original graphics etc. as to be used for authentication in this complaint.

We also would like to refer the adjudicator to complaint number # **0009** in the matter of ***Buongiorno UK! /Clickatell (Pty) Ltd*** being the WASPA member and Partymob being the service provider and herewith cite the adjudicator's decision in this matter:

Decision:

“Clause 6.2.5 of the WASPA Code of Conduct contains three requirements:

- 1. The price for a premium rated service must be easily visible;**
- 2. The price for a premium rated service must be clearly visible; and**
- 3. The price should appear with all instances of the premium number display**

Requirements 2 and 3 are objectively ascertainable and there is no breach of the WASPA Code of Conduct was found in respect thereof. Requirement 1 is not as objectively ascertainable as the other requirements. Subjective issues such as ease of visibility are more appropriately addressed by the WASPA Advertising Guidelines, which will specifically deal with issues such as font size. The Adjudicator regarded the advertisement (and particularly the font size used) as being on the border of ease of visibility and while this is a questionable business practice, no breach of the WASPA Code of Conduct could be established.

The Adjudicator did not uphold the complaint.”

Even though this is a magazine ad, the adjudicator referred to the WASPA Advertising Guidelines which will specifically deal with issues such as font size, and in the advertisement that forms the basis for this complaint # **3589**, the content provider has adhered to the Advertising Guidelines and applied the font sizes as portrayed therein and therefore it would be unfair and contradictory to the guidelines for the content provider to be penalized in any way. If viewing the video as provided by the content provider [As per link provided above] even the subjective requirement of “must be easily visible” should be satisfied with no difficulty.

We furthermore would like to refer the adjudicator to complaint # **376** in the matter of **Exact mobile** the WASPA Member with the following extract from the adjudicator's decision:

"The adjudicator noted the SP comment..."it is impossible to clearly see the wording of the Terms and conditions in any TV ad." This comment is extremely valid as many advertisements which are fully compliant with the requirements of the WASPA Advertising Rules, may nevertheless contain wording (both price and terms and conditions) that are wholly or partly illegible on most television screens. This comment is taken as a valid criticism of the WASPA advertising rules and not as an admission of any wrongdoing on the part of the SP. Based on the copy of the advertisement supplied and the complainants own reaction having seen this advertisement on a different screen, the complaint was not upheld."

Bearing in mind that this complaint #**3589** was brought in terms of the advertising guidelines **clauses 2.2.2 and 2.2.3**, the subjective requirements of **clause 6.2.5** of the Code of Conduct, should in actuality not be taken into consideration. Nevertheless even if it was, we still submit that after viewing the advertisement as provided by the content provider[As per link above] and given the similar circumstances and facts of complaint # **376** that the same principles of complaint number # **376** should apply, and therefore this complaint should be dismissed.

Given the content provider's good faith in this instance, the content provider has agreed and given the undertaking that he shall increase the font sizes above the current required minimums in advertisements to be produced and follow the current advertisements, to ensure that the consumer are well informed when making use of their services. It must be taken into consideration that the costs of manufacturing these advertisements are costly to the content provider and a time period should be provided wherein this could be accomplished."

Sections of the Code considered

The following sections of the WASPA Advertising Rules were raised and considered:

2.2.2 COST OF ACCESS TEXT DISPLAY RULES

Trigger:

At any display of, or mention by a voice-over, of a unique access number

Display Length:

100% of the length of the advertisement

Display Text Font:

'Zurich' font

Display Text Font Size:

18 points MINIMUM

2.2.3 T&C TEXT DISPLAY RULES

Trigger:

At any display of, or mention by a voice-over, of a unique access number

Display Length:

- Minimum 10 seconds
- If applicable, of the 10 seconds display time for T&Cs, a minimum of 5 seconds must be allocated to informing the user that they will be subscribing to a subscription service.

Display Text Font:

'Zurich' font

Display Text Font Size:

15 points MINIMUM

Decision

Aside from the section relating to the Report under Complaint #0009, which is not relevant to this matter, the version of the SP is accepted. I do not consider it

necessary to evaluate the matter further insofar as I am satisfied that the Complaint has been lodged on the basis of a subjective evaluation of the advertisement but relates to sections of the Advertising Rules where compliance is assessed on a strictly objective basis (i.e. has the required minimum font been used?).

The Complaint is dismissed.

As a postscript this Adjudicator endorses and supports the statement made by the Adjudicator under Complaint 3545 requesting that WASPA's Codecom take steps to clarify this aspect of the Advertising Rules.

"I refer to the adjudicator's report in complaint 376 where certain recommendations were made by the adjudicator, amongst which was the recommendation that the font of the terms and conditions be no smaller than that used for the access number. I agree with this suggestion.

There is also a lack of clarity with regard to how font sizes should be worked out for television advertisements. The Code Committee must formulate rules in this regard which can be easily followed by both members and adjudicators."