



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	iTouch
Information Provider (IP) (if any)	s/a
Service Type	Adult content subscription service
Source of Complaints	WASPA Monitor
Complaint Number	3619
Date received	5 March 2008
Code of Conduct version	5.7

Complaint

The complaint is in regard to a television advertisement for the Movisexy adult content service offered by the SP. The complainant alleges that the advertisement was flighted on 22 February 2008 during a PG13 program on the ActionX channel in the DSTV boutique.

The complainant alleges that the advert does not comply with Advertising Rule 2.2.1 in that it contains sexually related material which does not correspond with the program it was flighted in.

SP Response

The SP acknowledges that the advert was flighted on 22nd of February 2008 but states that the flighting was scheduled during the "Passion Peak" flighting time between 00h00 and 02h00. According to the program schedule, the program was a R18 program and was clearly stated in the schedule to be for adult members only.

The SP also mentioned that all its adverts are approved by stations prior to flighting and its flighting for adult content is based on what the stations allow it to advertise in.

The SP supplied a copy of the schedule for 22 February 2008 as follows:

Fri	22-Feb-08	ACT	2400	2559	PASSION PEAK @ 24:05
Fri	22-Feb-08	ETV	2435	2559	PASSION BEFORE MIDNIGHT
Fri	22-Feb-08	ETV	2435	2559	PASSION BEFORE MIDNIGHT
Fri	22-Feb-08	ETV	2435	2559	PASSION BEFORE MIDNIGHT
Fri	22-Feb-08	ETV	2435	2559	PASSION BEFORE MIDNIGHT

Passion Peak. 00:05, 02:00, R18. A movie for the adult members

Sections of the Code considered

Advertising rules

Adult content and Age-restricted services

No Content Services that may directly or indirectly allow persons under 18 years of age to obtain Adult Content and/or any Age-restricted Content may be advertised in media of general distribution, unless an adult verification process (implemented or approved by the mobile network operators) is in place to prevent – as may be reasonably possible - access to that content service by children.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

If on TV, any advertising of adult content on broadcast channels may only be done during the watershed hours defined by a licensed broadcaster and may not contain any sexual content or nudity in excess of that displayed within the programme the advertisement is placed in.

Decision

The complainant does not state in the complaint what time the advert was flighted on 22 February 2008. Based on the uncontradicted evidence provided by the SP

regarding the scheduled flight times for the advert on the 22nd, I am satisfied that the SP took reasonable steps to comply with advertising rule 2.2.1.

If the advert was indeed flighted during a PG 13 program and at a time other than between 00h00 and 02h00, this would have been as a result of the negligence of the broadcaster and not the SP and the complainant should take the matter up with the broadcaster.

The complaint is not upheld.