

<b>WASPA Member (SP)</b>	Grapevine
<b>Information Provider (IP)</b>	N/A
<b>Service Type</b>	Competition Irregularities
<b>Source of Complaint</b>	WASPA Monitor
<b>Complaint Number</b>	#3882
<b>Code of Conduct Version</b>	5.7
<b>Date of Adjudication</b>	03/05/2008

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## **Complaint**

The Complainant raised a complaint detailing the following:

“In the HEALTH SECTION of the Femina April 2008 publication, 2 competitions are running. Readers are to send an sms to 34424 by 30 April in order to win.

1. “Win a life-saving read” competition to win 3 books titled “Fight of my life” by Dr Ivan Cohen. NO COST OF ENTERING THE COMPETITION.
2. “Win tickets to mindfulness lectures” by Dr Jon Kabat-Zinn. NO COST OF ENTERING THE COMPETITION.

According to the smscode website, the 34424 shortcode is on a R2-00 band.

This advertiser will not be able to change their magazine marketing material, as the Femina is a monthly mag, and the competition closes on 30 April anyway. But this advertiser should, by now, be aware that all competitions require the cost of entry be included.

I have, on numerous occasions before lodged a complaint against Clickatell for this very same offence.

They should therefore be treated with a stricter approach when dealing with them on this matter.”

The WASPA Monitor has indicated that this is a repeat offence and cannot be resolved informally. The service provider is requested to provide a formal

response to the alleged breaches so that this matter can be reviewed by an independent adjudicator.”

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### **SP's Response**

The SP responded by stating the following:

“In the FEMINA April and May issues there was a production error and we unfortunately did not print the cost of the sms with the two small book give-aways in April and in May we did not print it with one small book give-away. This has been rectified in the bigger competitions in the May issue and in all competitions in the June issue (which is going to print this week). I would really like to apologise for this, we did not do this intentionally - and it was only advertised to the Femina readers; and it is not our aim to mislead the readers. ”

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### **Sections of the Code of Conduct considered**

9.1.1. Any promotional material for a competition service must clearly display the full cost to enter the competition and any cost to the user to obtain the prize.

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### **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 indicated that there was indeed an omission on behalf of the client to provide certain details required. The Adjudicator is of the opinion that this breach extended to section 9.1.1 of the Code of Conduct.

It is therefore held that the SP **has breached** section 9.1.1 of the WASPA Code of Conduct.

The Complaint against the SP is upheld.

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

- The SP's prompt response and follow-up with its client;
- The prior record of the SP with regard to breaches of section 9.1.1 of the WASPA Code of Conduct read; and
- The actions taken on behalf of the client.

The SP is fined R 5 000, 00 of which R 2 500, 00 is suspended for 6 (six) months. Should the SP breach this section within the six month period, starting from the date of adjudication, then it would be obliged to pay the R 2 500, 00 immediately. The fine of R 2 500, 00 is payable to the WASPA Secretariat within five (5) days of notification hereof.

The SP is further ordered to ensure that its clients are made aware of the various requirements laid down by the WASPA Code of Conduct.

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