



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Exactmobile
Information Provider (IP) (if any)	n/a
Service Type	Competition Advertising
Source of Complaints	WASPA Monitor
Complaint Number	4196
Date received	19 May 2008
Code of Conduct version	5.7

Complaint

The Monitor lodged this Complaint which highlights a fairly straightforward breach of section 9.1.4 of the WASPA Code of Conduct which requires that promotional materials for SMS-based competitions must “clearly state any information which is likely to affect a decision to participate” in the competition.

For obvious reasons the closing date for entries to the competition is a fundamental factor in deciding whether to enter that competition. An advert published in the Sunday Times Magazine of 11 May 2008 promoted two competitions using a shortcode contracted to an IP by the SP without any closing date being disclosed.

SP Response

The SP acknowledged the breach and conveyed the apologies of the IP:

“This ad is run by one of our IP's. The IP apologises for not having put a closing date in. This was an error and the IP has advised me that they will take utmost care in the future that this does not happen again.

The client allows for a long duration of the competition, normally 2 months as they accept entries via fax and post as well. This gives time to users without phones to enter as well.

This is a corporate social responsibility programme and therefore these competitions are not run to make money, but purely as a means for users to enter the competitions.”

Sections of the Code considered

The Adjudicator considered section 9.1.4 as raised by the Monitor:

9. Competitions

9.1.4. Promotional material must clearly state any information which is likely to affect a decision to participate, including:

- (a) the closing date;
- (b) any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
- (c) an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
- (d) any significant age, geographic or other eligibility restrictions;
- (e) any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item;
- (f) the entry mechanism and workings of the competition.

Decision

The IP has breached section 9.1.3 of the Code.

The Adjudicator requested and received a breakdown of the revenue derived from the competitions and is satisfied that it is indeed a corporate responsibility programme and that the IP is engaged in extremely worthwhile educational programmes.

The Adjudicator further had reference to

- the apology and undertaking forthcoming from the IP, both of which are accepted,
- the obvious nature of the breach in the sense that omitting the closing date is more easily attributed in this case to oversight than to nefarious purposes, and
- the low cost of entry (being the lowest at which the IP could use SMS as an entry mechanism without sustaining a loss).

In the circumstances no sanction is issued. The breach by the IP will however remain as precedent in respect of any further complaints raised in respect of competition services which it is promoting. The SP is requested to bring this to the attention of the IP.