

REPORT OF THE ADJUDICATOR

WASPA Member (SP): iTouch (formerly Buongiorno)

Service Type: Pricing of premium-rated services

Complainant: Anonymous competitor

Complaint Number: 4631

Adjudicator: Kerron Edmunson

Code version: 6.1 (1 July 2008)

Introduction

The finding in this matter rests on the facts alleged in the response of the SP. If it should subsequently appear that these facts were or are incorrect, the finding would obviously have to be revisited.

Complaint

The complainant has submitted a complaint regarding a premium-rated adult service, advertised on television as a R30 per 5-day service for “unlimited adult content”. Specifically the complainant alleged that when entering the WAP site advertised from which content could be downloaded, links entitled “more info” indicated that additional charges applied per download. However, if a user did not click on this link to establish the charges, but simply clicked on the content to be downloaded, they would be unaware of the additional charges, and assume that the access was unlimited within the 5-day period, for the R30 charge. It appears from the complaint that no content was actually downloaded. The complainant was concerned that as the service was heavily advertised on television, it posed a large and ongoing threat to the public.

SP Response

The SP responded fully with an explanation of how the procedure behind the site actually worked, using her own MSISDN, and copying out the screenshot indicating charges actually applied on downloading the content. Whilst the screenshot did seem to indicate a charge next to content, no charge was levied at the end of the transaction, as the coding of the procedure applied a “0” to each choice of content downloaded. The SP did, however, indicate that on an investigation of the website, links were found to state that content was charged for. The SP confirmed that “a full analysis of the website was undertaken and all links have thus been removed stating that content was charged for”.

Consideration of the WASPA Code

The complainant set out the provisions of each of sections 6.2.3, 6.2.4 and 6.2.5 of the Code:

Section 6.2.3: Pricing must not contain any hidden costs. Where applicable, pricing for content services must include the cost of the content and indicate any bearer costs that may be associated with downloading, browsing or receiving that content.

Section 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.

Section 6.2.5: The price for a premium-rated service must be easily and clearly visible in all advertisements. The price must appear with all instances of the premium number display.

In addition it is useful to refer to the first principles of the Code:

Section 4.1: Members are committed to honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.

Decision

Whilst the complaint is, on the face of it, a clear example of a breach, the facts suggest otherwise. In this case, there is no risk to the public as the link entitled "more info" which lists an additional charge for content is incorrect. This has been remedied by the SP on notice in response to the complaint. No actual harm can have been suffered by a user in that no additional charges would have been applied at any stage to the downloading of content.

It is, however, a timely reminder for SPs to check and double-check the content of their websites prior to launching services, as incorrect information nonetheless causes confusion, and does not amount to "honest and fair dealings" with customers, nor is it clear or accurate.

Sanction

The complaint is not upheld and no sanction is applied.