

<b>WASPA Member (SP)</b>	Mobile Messenger
<b>Information Provider (IP)</b>	N/A
<b>Service Type</b>	Display irregularities
<b>Source of Complaint</b>	Public
<b>Complaint Number</b>	#4874
<b>Code of Conduct Version</b>	6.1
<b>Date of Adjudication</b>	13/10/2008

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## **Complaint**

The Complainant in this matter stated the following:

“This web page was designed to deliberately hide the cost of the service and the terms and conditions. You have to scroll down 3 pages of text before you see what the subscription cost is.” The Complainant further indicated that he feels that there was a breach of the Advertising Rules.

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## **SP Response**

The SP’s response is reproduced here in full:

“Please note all Mobile Messenger comments will be marked in **BLUE**

Code Breached: 9.2.2 Cost OF ACCESS DISPLAY

9.2.2.1 Formatting Of Access Cost Text:

- Q. The consumer should thus not have to scroll down significantly on that same page or follow any links to other pages to be made aware of the full pricing and T&C associated with a unique access number.
- A. **We (Mobile Messenger ) acknowledge that the site T&C’s were not visible, thus requiring the user to scroll to find the summary terms with all the information. Mobile Messenger discovered the misformatted site on the 17<sup>th</sup> of September (2 days before we received this notice) we informed the client to rectify the issue immediately. However due to contractibility issues with the**

**Client, they did not affect the changes till the evening of the 19<sup>th</sup> of September (USA time). The site as you will see from the attached screen shots is now fully compliant.**

- Q. The pricing text must be clearly shown being independent of any other text or image, and not be placed or formatted in a manner where it may be obscured by other text information, graphics or marks that may be displayed around it.
- A. As noted above all the pricing information is contained in the summary terms. As such this issue is directly related to the one outlined above and as such the resolution is the same.**
- Q. This web page was designed to deliberately hide the cost of the service and the terms and conditions. You have to scroll down 3 pages of text before you see what the subscription cost is.
- A. The webpage was not designed to deliberately hide any costs or terms and conditions. Upon learning of the design error we immediately began action with the client to rectify the problem.**

As you will see (in the attached screenshots) all of the critical information regarding for example, price and subscription etc, are clearly and conspicuously displayed on every page. As well as an additional subscription reference at the top of every page requiring user input.”

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## **Clauses of the Advertising rules considered**

### 9.2.2 Cost OF ACCESS DISPLAY

#### 9.2.2.1 Formatting Of Access Cost Text:

The consumer should thus not have to scroll down significantly on that same page or follow any links to other pages to be made aware of the full pricing and T&C associated with a unique access number.

The pricing text must be clearly shown being independent of any other text or image, and not be placed or formatted in a manner where it may be obscured by other text information, graphics or marks that may be displayed around it.

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## **Decision**

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her.

The SP has indeed admitted in its wrongdoing and the Adjudicator has therefore no alternative but to uphold the complaint.

The Complaint is upheld.

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

- Any previous breaches of sections found to have been breached;
- Rectifying actions taken by the SP in resolving the matter.

The SP has conducted itself in a satisfactory manner by giving a detailed response and took immediate actions in order to rectify its breach. It has to be commended and the Adjudicator is also not of the opinion that the SP acted maliciously.

The SP is given a formal reprimand.

The SP is further instructed to ensure its compliance with the relevant sections considered in all current and future advertisements.

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