



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	TIMw.e. New Media Entertainment
Information Provider (IP) (if any)	n/a
Service Type	Subscription service
Source of Complaints	Anonymous
Complaint Number	5094
Date received	30 October 2008
Code of Conduct version	6.2

Complaint

An anonymous complainant lodged a complaint on 30 October 2008 via the WASPA website. The complaint involves a subscription service promoted on the webpage found at <http://www.mobilecoolgames.com/ws/acp?sp=27102&orig=169&t=50150>

The complainant alleges that people are misled into joining a subscription service with the offer of a single game. People think they are buying one specific game, but are subscribed to a daily service for games and ringtones. The advertisement offers only one specific game product instead of a subscription service which is in contravention of section 11.1.2 of the Code.

SP's response

The SP has responded to the complaint as follows:

1. The SP argues that the webspot clearly states "Subscription service, R4.99/day" and "this is a weekly subscription service. Every week you get 3 games plus 1 truetone for only R4.99 per day". Furthermore, the webspot does not contain references to one single game and refers to a weekly subscription service. Subscribers are furthermore informed of being able to STOP the subscription service at any time.
2. The SP refers to section 6.2.2 and 6.2.11 of the Code which is not the subject of the complaint, but merely illustrates that "*before the subscription is done the consumer has all information needed to make his decision to buy the service, as it clearly appears on the stamp, footnote and on the linkable terms and conditions, all together duly showing the conditions of the service.*"
3. The SP does not agree that it is in breach of the Code, however, avers that the webspot and campaign had been terminated and offers a refund to the anonymous subscriber if a subscription was initiated and billed for.

Sections of the Code considered**11. Subscription services****11.1 *Manner of subscription***

11.1.2 Any request from a customer to join a subscription service must be an independent transaction, with the specific intention of subscribing to a service. A request from a subscriber to join a subscription service may not be a request for a specific content item.

Decision

Based on the evidence before me, which included a visit to the relevant site, I am of the view that this service is clearly advertised as a subscription service. I do not agree that users seeking 1 content item (i.e. a mobile game) would inadvertently be signed up as a member.

The subscription service does not contravene section 11.1.2 of the Code and the complaint is accordingly dismissed.