



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	Opera Interactive
Information Provider (IP):	Mobimedia
Service Type:	Public Comment
Source of Complaints:	Public
Complaint Number:	7264
Code Version (CoC):	Code of Conduct 7.4
Advertising Rules (AR):	Advertising Rules 2.3
Date of Adjudication:	16 February 2010

Complaint

1. On the 05th August 2009 a complaint was lodged with the WASPA secretariat by a journalist relating to short code 32971 which is operated by Opera Interactive.
2. The complaint indicated that:
 - 2.1. *"Many newspapers are now publishing premium SMS short codes under the guise of seeking an "opinion". In this case no costs are published or referred to in any way. The user will gain nothing by paying for such a call. No service or promotion is delivered. Could be a ploy to create an income stream for parties concerned."*
3. The advertisement in question was attached to the complaint and is attached hereto as Annexure A.

SP Response to Complaint

4. The SP responded on the 15th August 2009 by acknowledging that the SMS short code should have been present by provided the following reasons for its omission:
 - 4.1. *"Usually the R1 price was always displayed next to the shortcode. However the paper*

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has recently undergone a mild redesign and one of the new editorial staff began publishing the shortcode at the end of articles without the price.

4.2. *In its stead the paper had a boiler plate on page 2 giving the price (see attached copy from July 29th).*

4.3. *As soon as this error was pointed out to the Herald, the omission was rectified and the price is now displayed every time the shortcode is published.*

4.4. *The Herald would also like to state for the record that the purpose comment line is to interact with readers. It was not and is not a revenue generating exercise. The lowest premium R1 pricepoint was chosen to cover the cost of the reply SMS."*

5. The SP then went on to indicate that this was the first time the Herald Newspaper had committed this offence and the Herald Newspaper has undertaken to hold training sessions with its staff on this point. The SP apologised for the omission and provided proof that the omission had been rectified (attached as Annexure B).

IP Response to Complaint

6. The IP in this matter also received notice of the complaint, but aside from providing further proof that the problem had been rectified did not provide any further information.

Portions of the Code of Conduct (version 7.4) considered:

7. **6.2.2.** All advertisements for services must include the full retail price of that service.
8. **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.

Decision

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9. This adjudication is exceptionally straightforward. The SP in this matter has admitted that the cost of the SMS was not provided in Annexure A and has remedied the breach of clause 6.2.2 of the WASPA Code of Conduct. The complainant had no further comment on the matter.
10. The only other question to deal with relates to whether this type of service is seen as a manner of generating income as alleged by the complainant. It is not clear which clause of the WASPA Code of Conduct this type of activity is seen as breaching. Indeed WASPA members are generally for-profit organisations and I cannot see any reason why a profit related to these services could not be made. Of course in this specific case the fact that the SMS costs R1.00 makes it quite unlikely that any of the parties is making any significant money, but even if it were it is unclear why this should be prohibited.
11. It should be noted that as both the SP and the IP were a party to this adjudication and as such both of them stand to be sanctioned.

Mitigation/Aggravation

AGGRAVATION

1. In aggravation of the circumstances:
 - 1.1. The SP has been previously involved in complaints where it was found guilty of breaching the same provisions. See complaints 4712, 4782, 4783.

MITIGATION

2. In **mitigation** of the circumstances:
 - 2.1. The price of the premium rated SMS is low (R1.00).
 - 2.2. The problem has been rectified.
 - 2.3. Training at the Herald's offices has been organised and the SP has apologised for the omission.

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Sanction Imposed

3. As a result of the breach of clause 6.2.2 of the CoC I impose the following sanctions:

3.1. The SP and IP are hereby reprimanded for allowing the article to be flighted without the necessary price information being provided.

3.2. The SP is fined an amount of R2 000.00 to be paid within 10 working days of the date this adjudication is published.

3.3. The IP is fined an amount of R1 000.00 to be paid within 10 working days of the date this adjudication is published.

Appeal

Please note that should the SP wish to appeal this decision it must inform the secretariat of this within five working days of this decision in terms of section 13.6 of the Code of Conduct version 7.4.

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Annexure A

PLEASE NOTE THAT SOME IDENTIFYING PERSONAL INFORMATION HAS BEEN REMOVED BY THE ADJUDICATOR DUE TO THE FACT THAT THIS ADJUDICATION WILL BE PUBLICLY AVAILABLE.

30/07/2009 14:27 FAX 0000

12 THE HERALD WEDNESDAY
JULY 29, 2009

Seven Americans held for 'plotting terror activities'

■ Father, sons among those arrested in US for 'plotting jihad'

Herald Correspondent
in WASHINGTON

AN American father, his sons and four others have been arrested in the southern United States and charged with plotting "jihad" against other countries, including Israel.

The seven defendants were arrested by federal police on Monday in North Carolina, a statement from the US Justice Department said.

The men, who range in age from 20 to 39 and include six US citizens and one legal US resident, appeared before a federal judge in Raleigh, North Carolina, where they live, immediately after their arrest.

Federal authorities said they plotted to kill themselves and others in the name of Islam.

Their activities, tracked by FBI agents over three years, were detailed in federal indictments released on Monday.

They face a complex set of charges, with all being accused of conspiracy to provide material support to terrorists and conspiracy to murder, kidnap, maim and injure persons abroad. They face life sentences if convicted.

"These charges hammer home the point that terrorists and their supporters are not confined to the remote regions of some far-away land but can grow and fester right here at home," said US Attorney George Holding.

The oldest member of the group, Daniel Boyd, who is said to be the ringleader, is accused of travelling to Afghanistan and Pakistan between 1989 and 1992 for "military-style training in terrorist training camps for the purpose of engaging in violent jihad".

Between 2006 and July 2009, prosecutors allege, Boyd and the other defendants tried to raise funds for terror attacks and underwent assault weapons training.

"The defendants prepared themselves to engage in violent jihad and were willing to die as martyrs," the Justice Department said.

The other Americans charged were identified as Boyd's two sons, Dylan Boyd, 22, and Zakariya Boyd, 20;

Anes Subasic, 33; Mohammad Omar Aly Hassan, 22; and Ziyad Yaghi, 21.

Another defendant, Hysen Sherifi, 24, was a native of Kosovo and living in the US legally.

The indictment does not describe any plans to carry out specific attacks inside the US, but alleges the group did plan to target Israel.

"In June 2007, Daniel Boyd and several other defendants departed the United States for Israel in an effort to engage in violent jihad but ultimately returned to the United States after failing in their efforts," the statement said.

The men, who were being held without bail, were expected to appear at a follow-up court hearing later this week.

In May, another notorious case of home-grown terrorism led to the conviction of five Miami men found guilty of plotting to blow up the Sears Towers in Chicago, which this month was renamed the Willis Towers.

Sentencing in that case has been set for September. — Sapa-AFP

These charges hammer home the point that terrorists can grow and fester right here at home

SMS TEXT YOUR VIEW 32971

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Annexure B

