



REPORT OF THE ADJUDICATOR

WASPA Member (SP) TIMwe (Total Tim)
Information Provider (IP)
(if any)
Service Type Subscription service
Source of Complaints J Cobbett
Complaint Number 9455
Date received 7 May 2010
Code of Conduct version 9.0

Complaint

The complainant states that while he was browsing the website at: www.encyclopedia.com he noticed a banner advertisement inviting him to "*Do 20 Pull Ups First AND WIN!*"

The complainant proceeded to enter the competition and beat the computer. He was informed: "You Won!" and was provided with a further link. When he followed the link, as instructed, he realised that he had not won anything. Instead, he was invited to join a "games club" at a cost of R4.99.

The complainant alleges that the SP has contravened section 9.1.6 of the WASPA code.

SP's response

The SP responded to the complaint by acknowledging the contravention. The SP states further that an agency working for it had used unapproved banners to promote a game campaign.

The SP also stated that clear information about the subscription service was disclosed on its website and on the messages that were sent to the complainant's phone throughout the registration process and after the registration process.

The SP stopped the advertisement immediately and offered to refund the complainant any charges that had been made to his account.

Sections of the Code considered

Section 9.1.6

Competition services and promotional material must not:

- (a) use words such as 'win' or 'prize' to describe items intended to be offered to all or a substantial majority of the participants;
 - (b) exaggerate the chance of winning a prize;
 - (c) suggest that winning a prize is a certainty;
 - (d) suggest that the party has already won a prize and that by contacting the promoter of the competition, that the entrant will have definitely secured that prize.
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Decision

The SP has admitted that the banner advertisement which is the subject of this complaint contravened section 9.1.6 of the WASPA Code.

Sanction

The SP immediately took steps to resolve the complaint by removing the advert and offering to refund the complainant any charges that were incurred. However, it does not appear that any charges were incurred by the complainant.

I have taken into account the numerous previous complaints lodged against this SP with WASPA, and in particular complaints 8837 and 7673 respectively, which deal with the SP's subscription services.

In light of the foregoing, the following sanctions are given:

1. The SP is fined an amount of R200 000.00.
2. The SP is issued with a final warning regarding the promotion of its subscription services in contravention of the Code. It is recommended that, if the SP is found in future to have contravened similar sections of the Code, the SP's membership of WASPA should be suspended, including the suspension of all services and billing via the relevant short codes used by the SP for its subscription services.