



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	ViaMedia
Service Type	Subscription Service
Source of Complaints	Competitor
Complaint Number	#0008

Complaint

A complaint was received in respect of the subscription service offered by the SP under its ActiveM brand. In particular the complaints concerned the bundling of content items and a subscription service and the clarity of the pricing in respect of such service, as evidenced by an advertisement for the service as placed by the SP.

The following clauses of the WASPA Code of Conduct were considered:

2.20. A “**subscription service**” is any service for which a customer is billed on a repeated, regular basis without necessarily confirming each individual transaction.

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

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.

The complainant raised a specific concern with the statement in the terms and conditions appearing at the foot of the advertisement to the effect that “We’ll activate your subscription as soon as we can”.

SP response

The Secretariat received the following response from the SP:

“We thank Mr Penkin for highlighting the non-conformance to the Code of Conduct in ActiveM’s print adverts.

He will be relieved to learn that these have long been remedied.

All ActiveM ads submitted to publishers from 1 September (and before):

- have the price just below the access number and,
- have no mention of Subscriptions in the terms and conditions.

and therefore do not contravene the Code of Conduct.

The offending advert in You [Magazine], as with one or two others, have a very long lead times and were unfortunately submitted to the publishers weeks ago, before conformance with the Code of Conduct had been properly communicated to the designers.

However, Mr Penkin can rest assured that:

* The pricing in the offending ads, which are unfortunately in the market, is very clear and not misleading. The price is also the industry standard rate (the same price that Mr Penkin charges).

* ActiveM decided NOT to run as a subscription service from 1 September, no subscription mechanism has been in place since 1 September, therefore no bundling has happened since the 1st of September implementation of the Code, purely PR MO SMS. Therefore there is no breach, just incorrect Terms & Conditions.

* All ActiveM adverts being submitted currently (and for some time now) conform to the Code of Conduct.

So explained it is reasonable to state that no consumer has been negatively affected either by a 'hidden' price or by 'bundling'."

Decision

The Adjudicator accepted the SP's response and accordingly did not uphold the complaint.