



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	Airborn Messaging
Service Type	Use of short code for commercial services
IP	Business Day newspaper
Source of Complaints	Public
Complaint Numbers	#0051

Complaint

A complaint was received from a member of the public concerning a radio advertisement on 702 Talk radio for the "Business Day" newspaper, which advertisement included an invitation to listeners to "send an SMS message to number "33083" to subscribe." The complainant indicated further "I do not know what this costs, as they do not say it on the radio! Surely this is not allowed?"

A recording of the advertisement in question was not provided.

The following Clause of the WASPA Code of Conduct was considered:

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

Investigation

The Secretariat conducted an investigation into the service offered by the SP.

The Secretariat received a response from the SP indicating that:

- the relevant customer who is using the premium rated SMS code 33083 has been informed that the price per sms to the premium rated SMS should be displayed/represented to the customer with every services that uses the premium rated SMS code 33083 or any other premium rated SMS.
- The customer has also been referred to the agreement signed with the [SP] as it also states that the cost per sms to any premium rated number should be displayed.

Decision

In the absence of evidence of the contravention, the complaint is not upheld.

The SP's submission cannot be interpreted so widely as to be regarded as an admission of the action complained of. Furthermore, the SP's response makes it clear that the SP is aware of its obligations under the WASPA Code of Conduct. Nevertheless, The Adjudicator considered it pertinent to remind the SP that in terms of the WASPA Code of Conduct (at Clause 3.9) an SP is vicariously liable for the actions of its Information Providers, should the SP fail to take appropriate steps where an IP contravenes the WASPA Code of Conduct.