

REPORT OF THE ADJUDICATOR

WASPA Member (SP) Mira Networks

Information Provider (IP) DCDM Limited

Service Type Content Downloads

Source of Complaints Competitor

Complaint Number #0328

Complaint

A complaint was received from a competitor of the SP concerning an advertisement for content downloads under the "Redtonez" brand placed in the July Edition of FHM Magazine.

The complainant indicates:

The pricing has been placed in the top right hand corner outside of the normal places where a consumer will see the price. The code states that the pricing must appear with all instances of the short code. The short code is advertised 6 times without any pricing.

Section 4.1.1

As the content is being sold at R15.00, where the market is used to paying R5.00 the pricing should be very clear. This is a blatant attempt to mislead users into thinking they are paying the market rate, when in fact it is 3 times higher.

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

- 4.1.1. Members are committed to honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.
- 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.

Investigation

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

Wireless Application Service Provider Association

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The Secretariat did not receive a response from the SP or the IP.

Decision

The copy of the advertisement is obscured in such a way as to hide the price information totally (on the assumption that the advertisement layout is similar or identical to that in respect of the same IP in complaint #0305). As such, a finding in terms of Clause 6.2.5 of the WASPA Code of Conduct is not possible.

The complainant did not reference the WASPA Advertising Rules, which accordingly cannot be considered on ground of procedural fairness. Section 5.2 thereof is directly to point and provides:

For each unique access number, the full cost of the access must be displayed immediately below, or above, or adjacent to the unique access number or content access code in a manner that is easily visible and readable.

The complainant gives no indication of what is meant by the term "normal" and seems to be attempting to use the WASPA Code of Conduct to establish a price regulatory regime. There is no basis for a finding of a contravention of Clause 4.1.1 of the WASPA Code of Conduct.

The complaint is so lacking in substance that it cannot be sustained, even in the absence of a response from the SP and IP.