

REPORT OF THE ALTERNATIVE APPEALS PANEL

Date: 08 December 2007
Appellant (WASP): Buongiorno UK
Complaint Numbers: 0610 and 0611
Code version: v4.6

1 INTRODUCTION TO THIS APPEAL

1.1 This appeal concerns the adjudication of two complaints by a competitor against the WASPA member, Buongiorno UK (Buongiorno).

1.1.1 On the member listing of the WASPA website, Boungiorno links to <http://www.teljoy.co.za> (*Teljoy*). The Teljoy website in turn links to <http://www.renttoown.co.za/> (*Rent to Own*), <http://tbs.teljoy.co.za/> (*Teljoy Business Systems*) and <http://www.loadin.co.za/> (*Loadin*).

1.1.2 Only the *Loadin* website has terms and conditions and partial information required in terms of sections 50(1)(c) and 171 of the Companies Act¹ which require, *inter alia*, the provision of company information and directors' names.

1.1.2.1 The *Loadin* website states:

“... *Loadin* is a subscription service with a partnership between Buongiorno UK and Teljoy South Africa”;

the “*Content Supplier*” is recorded as “*Buongiorno UK Ltd, 20 Orange Street, London, WC2H 7NN*”; and the;

“*Local Marketing Agent*” is recorded as “*Africell (Proprietary) Ltd, Teljoy House, Block A, International Business Gateway, Cnr New Road and Sixth Avenue, Midrand, Johannesburg*”.

¹ Companies Act, 61 of 1973

50 Use and publication of name by company

(1) Every company-

- (c) shall have its name and registration number mentioned in legible characters in all notices and other official publications of the company, including notices or other official publications in electronic format, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company and in all letters, delivery notes, invoices, receipts, and letters of credit of the company

171 Names of directors to be stated on trade catalogues, trade circulars and business letters of company

(1) A company shall not issue or send, irrespective of whether it is in electronic or any other format, to any person in the Republic any trade catalogue, trade circular or business letter bearing the company's name unless there is stated thereon or therein in a form capable of retrieving therefrom in respect of every director-

- (a) his present forenames, or the initials thereof, and present surname;
(b) any former forenames and surnames not being those referred to in section 215 (3);
(c) his nationality, if not South African.

[Sub-s. (1) amended by s. 21 of Act 35 of 2001.]

(2) Any company which fails to comply with any provision of subsection (1), shall be guilty of an offence.

**WASPA alternative appeals panel
Complaint 0610 and 0611**

- 1.1.3 The domain names listed in clause 1.1.1 above are all registered in the name of “Teljoy”, with the following address: Private Bag X67, Halfway House, Midrand.
- 1.1.4 A search on the CIPRO website revealed 3 companies with the name “Teljoy”, all have the same address but are involved in different sectors, none of which are ICT related.
- 1.1.5 Additionally, other names appear and / or are linked to the Buorngiorno, these include Africell and Africell Cellular Services.
- 1.1.6 The initial response to the complaint came from a “*teljoy.co.za*” email address, without any requisite company information (Ref. 1.1.2 above).
- 1.1.7 No information could be found on “*Teljoy Mobile*” who, purport to act for Buorngiorno in this appeal. (Ref clause 5.2.1 below).
- 1.1.8 The appeals panel have gone to considerable length to establish who the responsible parties are, specifically because of the size of the fines imposed by the adjudicator and the punitive nature of the fines because the adjudicator was “*mindful of the steps taken by WASPA to eradicate dubious subscription-related matters referred to the WASPA Independent Adjudicators, [the adjudicator] regards the breach as being of a particularly flagrant and serious nature*”. The panel was equally concerned that the responsible parties may be using different juristic or trade names to avoid being inculpated.
- 1.1.9 The appeals panel have taken into account the apparent relationships between all these juristic persons and their involvement in the matters subject to the appeal, in its consideration of the appeal and the sanction.
- 1.1.10 The appeals panel wishes to record that the primary purpose of WASPA is to protect consumers, and records further that the panel itself is confused by the representations made (and not made) in respect of furnishing company information and the resultant executive accountability. In a nutshell, the panel is not at all sure who the South African partner of Bourngiorno is, or, who the service provider in this appeal is.
- 1.1.10.1 If in fact the “*Blinko Club*” is the service provider, which of the abovementioned entities is accountable?²
- 1.1.11 For the purposes of this appeal therefore, the appeals panel will regard the WASPA member, Buorngiorno UK, as the appellant and service provider. Any or all of the other juristic entities will be regarded as Buorngiorno’s representatives in South Africa. It remains for all these to resolve their respective accountability *inter se*.
- 1.1.12 All references by the Adjudicator to the “Service Provider” or “SP” must be understood to be equivalent to references to Bourngiorno in this appeal.
- 1.1.13 Finally, the panel expresses concern at the number of links and names in relation to services offered and the lack of compliance by each of these entities with statutory requirements and the Code.

² This is important because the punitive nature of the fine imposed is linked to the fact that Buorngiorno has a history of contravening the WASPA code. See for example complaint numbers 192, 196, 198, 201, 222, 260, 263, 265, 266

**WASPA alternative appeals panel
Complaint 0610 and 0611**

- 1.2 The Report of the Adjudicator is dated 08 February 2007. The subject matter of the two complaints relate to possible breaches of the WASPA Code of Conduct (the Code) in connection with the same advertisement placed in the *Huisgenoot* Magazine published for the week commencing 26 October 2006. Both complaints were submitted to WASPA by the same Complainant on 26 October 2006.
- 1.3 The appeals panel have adopted the following structure in consideration of this appeal:
- Part 2: Summary of the complaints and the response;
 - Part 3: Summary of the relevant sections of the Code;
 - Part 4: Summary of the adjudicator's decisions;
 - Part 5: The SP's grounds of appeal; and
 - Part 6: Findings of the appeals panel.
- 1.4 For the sake of the participants in this matter and readers in general, we record that the WASPA complaints procedure is a combination of review and appeal procedures. While it is not the role of the appeals panel to start the enquiry anew, but rather to review the facts which are brought before it by the WASPA Secretariat, the panel may request ancilliary information to support substantive issues and / or look wider than the original adjudication in the interests of equity.
- 1.5 We record in addition that there is no right for a review of the appeals panel decision.

2 SUMMARY OF THE COMPLAINT AND THE RESPONSE

2.1 *The Complaint*

- 2.1.1 The complaints were lodged by a director of competitor and submitted to the WASPA Secretariat via the online web form on 26 October 2006.
- 2.1.2 The complaints were made against Buongiorno UK and cited "other ID" as "Blinko Klub" as per the advertisement. See Annexure A below.
- 2.1.3 The complaints are recorded as follows:
- 2.1.3.1 Complaint 0610

*"Code_Breached: I sent an SMS with the code AB23212 to 31199. I was billed 50c. I then got an SMS back saying "\Blinko Club: Please confirm ur download request NOW by sending YES to 31199. I sent an SMS with the word YES to 31199. I was billed an additional R5.50. I then received an SMS saying "\Welcome! We are currently processing your order. Notification via SMS will be sent to you. I received a bookmark to download the item. I then sent another SMS with another content code to 31199. I was billed 50c. I received a bookmark to download the content. **Therefore from my testing it shows that I have been subscribed to this service by requesting a single content item.** [panel's emphasis] The ad says that you get*

**WASPA alternative appeals panel
Complaint 0610 and 0611**

10 items each week for R5.00. I have been billed R6.50 and have only received 2 items. I requested 1 item, and was forced to reply with yes to join the subscription. Therefore by purchasing one item, I was automatically subscribed to the service. I have not received any notification about the subscription and how to unsubscribe”.

2.1.3.2 Complaint 0611

“Code_Breached: 11.3 of Code of Conduct. Detailed_Description_Complaint: 11.3 states that instructions on terminating a subscription service must be clear, easy to understand and readily available. Nowhere in the ad do they state how you can unsubscribe to the service and what the cost to unsubscribe is. You are also not sent a SMS which tells you that you are subscribed and how to unsubscribe”.

2.2 *The Response*

2.2.1 Two separate responses to the two complaints were received from Ron Goldstein, by email, with a “Teljoy” email address, but without any company information or an explanation as to why they were responding or what the relationship was between Teljoy and Buongiorno, viz rgoldstein@teljoy.co.za on 08 November 2006 as follows:

2.2.1.1 Response to Complaint 0610

“The complainant, ..., stated that we are:

- (a) subscribing a client to a service by allowing them to request a single content item;*
- (b) charging an additional R0,50 per request.*

In-terms of (a) above I would like to direct you to part of ... [the Complainant’s] complaint. He clearly stated that he tried to request a piece of content and was asked does he want to subscribe to the service. We’ve configured the service to either subscribe one if they send in a START / GO / CLUB command automatically. Alternatively, if they request a piece of content we notify them of the subscription and ask them to opt in (i.e. confirm that they want to subscribe). The rationale of the above is that one can download a single piece of content at R5 or if one wants to subscribe to a club one would pay a lower rate (i.e. R5 per week and bearer rated SMS to request content). We clearly state the procedures for one off downloads and the costs involved thereto.

In-terms of (b) above, again our ads clearly state that one would pay bearer rated (or R0,50) to request any piece of content. Should you require copies of any of the ads and or any further info please feel free to contact me”.

2.2.1.2 Response to Complaint 0611

**WASPA alternative appeals panel
Complaint 0610 and 0611**

This response was from the same person with the same email address as the response to complaint 0610.

“The complainant,, stated that we did not have the STOP command in the advert and has not received confirmation via SMS on how to unsubscribe. The advert was booked last minute as part of a trade exchange with You / Huisgenoet. Whilst compiling the advert our agency overlooked the STOP command requirements in the T&C’s. This was the first Blinko All you can eat subscription club advert in print. As such the omission was an honest oversight on our behalf. We have rectified same. A new template has been designed. In all future adverts we will comply with the said rule. In terms of [the Complainant’s] second part of the complaint, our system is configured to send an SMS with our customer care number and unsubscribe details. If [the Complainant] supplies us the MSISDN used to test the service we will look into the logs and query why he did not receive this message.

3 SUMMARY OF THE RELEVANT SECTIONS OF THE CODE

- 3.1 The relevant sections of the applicable Version 4.6 of the Code referred to in the two complaints are set out hereunder.
- 3.2 While the Complainant did not quote the relevant sections of the Code allegedly breached in respect of Complaint 0610, he did reference section 11.3 of the Code in respect to Complaint 0611.
- 3.3 For the purposes of both the adjudication of these two complaints and this appeal against the findings, it must be noted that the complaints are in effect identical, relating to the same issues, made by the same complainant, on the same date, regarding the same advertisement. As such, the two complaints will be consolidated and treated as one matter henceforward in this report.
- 3.4 Sections of the WASPA Code of Conduct relevant to both Complaints 0610 and 0611 as set out by the adjudicator:
 - 3.4.1 The following section of the Code provides for the provision of information to customers as follows:
 - 4.1.4. Members must make the terms and conditions of any of their services available to customers and potential customers, on request.
 - 3.4.2 The following sections of the Code provide for pricing of services as follows:
 - 6.2.2. All advertisements for services must include the full retail price of that service.
 - 6.2.3. Pricing must not contain any hidden costs. Where applicable, pricing for content services must include the cost of the content and indicate any bearer costs that may be associated with downloading, browsing or receiving that content.

**WASPA alternative appeals panel
Complaint 0610 and 0611**

6.2.4. Pricing contained in an advertisement must not be misleading. If multiple communications are required to obtain content, then the advertised price must include the cost for all communications required for that transaction. A clear indication must always be given that more premium messages are required.

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.

6.2.6. Unless otherwise specified in the advertising guidelines, the name of the WASP or the information provider providing the service must appear in all advertisements for premium rated services.

3.4.3 The WASPA Code of Conduct provides *inter alia* for advertising and pricing as follows:

6.1.1. In addition to the provisions listed below all members are bound by the WASPA Advertising Rules, published as a separate document.

It is noted that the panel accepts that the Ad Rules are integral to the implementation of the Code although at the time of this report, the Ad Rules have not been relied upon by the complainant nor referred to in the appeal. Given the basis of the findings of the appeals panel, reference to the Ad Rules was considered unnecessary in this appeal.

3.4.4 The following sections of the Code provide for the manner of subscription as follows:

11.1.1. Promotional material for all subscription services must prominently and explicitly identify the services as “subscription services”.

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. A request from a subscriber to join a subscription service may not be bundled with a request for a specific content item.

11.1.4. Customers may not be automatically subscribed to a subscription service as a result of a request for any non-subscription content or service.

11.1.7. Once a customer has subscribed to a subscription service, a notification message must be sent to the customer containing the following information:

- (a) The name of the subscription service;
- (b) The cost of the subscription service and the frequency of the charges;
- (c) Clear and concise instructions for unsubscribing from the service;
- (d) The service provider’s contact information.

**WASPA alternative appeals panel
Complaint 0610 and 0611**

3.4.5 The following sections of the Code provide for termination of a service as follows:

11.3.1. Instructions on terminating a subscription service must be clear, easy to understand, and readily available.

11.3.2. All subscription services must have a readily available unsubscribe facility which costs no more than one rand.

11.3.3. Customers must be able to unsubscribe from any subscription service via SMS using no more than two words, one of which must be 'STOP'.

11.3.4. Members must ensure that the termination mechanism is functional and accessible at all times.

4 DECISION OF THE ADJUDICATOR

4.1 *Adjudicator's Decision – Section 11.1.2*

4.1.1 In considering whether Buongiorno had breached section 11.1.2 of the Code by bundling a request from a subscriber to join a subscription service with a request for a specific content item, the Adjudicator had reference to the WASPA Appeal Panel Findings for complaints number 0002, 0011, 0026, 0037 and 0058, as well as the approach and the factors to be taken into account regarding the question of bundling set out by the Adjudicator in complaint number 22 (all available on <http://www.waspa.org.za>) The Adjudicator reasoned as follows:

“The advertisement is however structured in a manner that each item code also constitutes a manner in which to subscribe. This is a clear bundling of a request to join a subscription service with a request for a specific content item.

According to the SP [Bourngiorno] the Complainant “clearly stated that he tried to request a piece of content and was asked does he want to subscribe to the service”. The underlined portion is simply not true. The Complainant, under step 2 set out above, was asked to confirm his download request, not his subscription.

The SP further raises its configuration of the service noting that it has configured the relevant service to subscribe a consumer automatically if they send in a START / GO / CLUB command automatically. Alternatively, according to the SP, where the consumer requests a piece of content “we notify them of the subscription and ask them to opt in (i.e. confirm that they want to subscribe)”. As shown above the quoted portion is simply not true”.

The Adjudicator found that Bourngiorno's conduct constituted a serious breach of section 11.1.2 of the Code.

**WASPA alternative appeals panel
Complaint 0610 and 0611**

4.2 *Adjudicator's Decision – Section 11.1.7*

4.2.1 The adjudicator made no findings in regard to whether Buongiorno had provided a proper subscription confirmation notice. The adjudicator's reasoning was as follows:

“While the bona fides of the Complainant in raising this allegation are accepted it would not be fair to the SP to make any finding in the absence of the provision of the requested MSISDN”.

4.3 *Adjudicator's Decision – Section 4.1.1 and 6.2.4*

4.3.1 The Adjudicator found that the pricing and the manner in which the pricing was presented had a high probability of being misleading was not clearly and accurately conveyed to customers. Furthermore, the Adjudicator found that:

“The adverse finding is reinforced by an examination of the relevant provisions of Chapter 5 of the WASPA Advertising Rules which relates to print advertisements placed in the body or classified portions of published magazines where Access Channels are displayed. It should be noted that no findings can be made with regard to any possible breach of such provisions”.

4.4 *Sanction*

4.4.1 The Adjudicator, in addition to reprimanding Buongiorno and instructing it to rectify the advertisement, imposed the following fines for breaches of the Code as follows:

Section 11.1.2 an amount of R75 000.00;

Section 11.1.7, no fine;

Section 4.1.1 and/or section 6.2.4 of the code an amount of

R50 000.00; and

Section 11.3.1 an amount of R15 000.00

4.5 The Adjudicator points out that the severity of the fine is based upon, *inter alia*, reference to the Adjudicator's Report in respect of complaints number 0192, 0196, 0198, 0201, 0222, 0260, 0263, 0265 and 0266, and additionally, steps taken by WASPA to eradicate dubious subscription service practises.

5 GROUNDS OF APPEAL

5.1 *The Appellant*

5.1.1 At some time following receipt of the Adjudicator's decision against Bourngiono UK, dated 08 February 2007, the WASPA Secretariat received notification of an appeal.

**WASPA alternative appeals panel
Complaint 0610 and 0611**

5.1.2 The grounds for appeal were recorded, not on a company letterhead, but rather, on a blank sheet of paper and signed for by a certain Jason Joffe, who represented himself as Managing Director of “Teljoy Mobile”, and being “duly authorized on behalf of Buongiorno UK”. (In this appeal the panel will continue to refer only to the appellant as Buongiorno).

5.2 *Buongiorno’s Grounds for Appeal*

5.2.1 Buongiorno makes the appeal as follows:

5.2.1.1 *“The adjudicator’s findings in terms of the first part of the complaint (section 11.1.2):*

“I would like to redirect the adjudicator to page 4 of the report. The adjudicator clearly states that on 10 December 2006 he re-tested the service and agreed that the MT received stated “...to join the service SMS YES to 31199...” Later in the same report, it states that one must SMS yes to reconfirm the download – THIS IS NOT THE CASE. The YES command is to join the club. Therefore in terms of the findings we believe:

- *The ad is not misleading as it clearly states in the headline of the ad that it is a subscription service;*
- *The request is independent of the service as one needs to SMS YES to join;*
- *No client is being auto-subscribed;*
- *We do send reminder SMS to all clients on a monthly basis;*
- *If one wants to terminate the subscription they simply SMS stop to 31199, this is advertised and is also included in the reminder message.*

It should be noted that the change to the code took place in August and the advert was placed fairly soon after that. Although the change may have been brought to the attention of the persons composing the advertisement, the full impact of the change was clearly not understood i.e. that even if a clear SMS YES was required to subscribe to the service, it would still be a contravention to route this through specific types of content – even if the whole advertisement was headed with a clear indication that we were selling a subscription service.

The adjudicator’s findings in terms of the second part of the complaint:

- *Section 4.1.1 of the code: We believe we are being honest with the public – the ad clearly states that this is a subscription service*
- *Section 6.2.4 of the code states that “pricing contained in an advert must not be misleading --- a clear indication must always be given that more premium messages are required...”. The service only charges one premium SMS all other MO’s are at standard bearer rate, same cost as standard SMS*
- *Section 5.3.13 of the Advertising rules (version 1.6)*

With regards to:

**WASPA alternative appeals panel
Complaint 0610 and 0611**

- *The subscription component of R5 per week is stated*
- *We state this is a weekly subscription*
- *We do understand that this point was an oversight on our part. We have since rectified this and apologize for any inconvenience caused.*

The transgression, if any, is of a highly technical nature and only one complaint was received. If not for the technical transgression, a member of the public might not be deemed to have been confused. Since only one complaint was received, perhaps only one was confused. The breach was certainly not “flagrant” or an attempt to be dishonest and the penalty is out of proportion to our intention or the harm caused.

Section 11.3.1 of the code: “The instruction to terminate the service must be clear, easy to understand and readily available...”

- *The stop command was included in all our adverts and is also included in the reminder SMS that is sent to our subscribers on a monthly basis”.*

6 FINDINGS OF APPEALS PANEL

6.1 The panel has struggled with this appeal which seems to have been made unnecessarily complicated and seems to be based on a mistake.

6.1.2 Firstly, the panel does not support the findings of the adjudicator for the reasons advanced by the adjudicator. This is because in our view, the adjudicator could not and should not have made those findings without more information and specifically the MSISDN number of the complainant. His acceptance of the *bona fides* of the complainant was not sufficient grounds on which to proceed, let alone for the imposition of so severe a fine.

In 4.2.1 above the adjudicator states “*While the bona fides of the Complainant in raising this allegation are accepted it would not be fair to the SP to make any finding in the absence of the provision of the requested MSISDN*”. Yet, in spite of this, the adjudicator proceeded to make serious and adverse findings against Buorngiorno.

The panel is of the opinion that the adjudicator erred in this regard.

It is noted for the record that the panel requested further information, including the logs and the MSISDN number relating to the complaint. This information supports the reasons for upholding the appeal. See Annexure B below.

6.1.3 Secondly, the panel is of the opinion that the adjudicator erred in his decision regarding the complaint itself. The panel agrees with Buorngiorno that the advertisement is clear in regard to both the services offered and the pricing. See Annexure A below.

**WASPA alternative appeals panel
Complaint 0610 and 0611**

The entire complaint is based on an apparent mistake made by the complainant. He says: “*I sent an SMS with **the code AB23212** to 31199 (see 2.1.3.1 above). The advertisement clearly states that the “**A**” is a request for a subscription service. In fact, the entire advertisement is prefaced by the statement that Blinko is a subscription service. The advertisement also states that this default position of a subscription service can be altered if the “**A**” is substituted with a “**B**”*”

The panel notes also that Buorngiorno has taken the additional step of confirming requests for subscription through an opt-in procedure.

The panel finds that the complainant got what he requested. He requested a subscription service.

The panel finds that the adjudicator erred in his findings in this regard.

- 6.1.4 Thirdly, given the above panel findings, it is not necessary to consider the other issues raised by the adjudicator.

The panel agrees that there was an initial breach of section 11.3 of the code by Buorngiorno in that no provision was made to advise consumers of the termination procedure. Buorngiorno admitted the breach and rectified same with the result that the panel finds it is unnecessary to consider this point further. The adjudicator’s fine in relation to this breach for an amount of R15 000.00 is suspended for a period of 6 months.

- 6.2 With regard to all other matters the, the panel has decided to uphold the appeal. The appeal fee of R10 000.00 will not be refunded.

GENERAL COMMENT:

The panel does, however, make the point that should it be found in future matters which have similar facts, that it is appropriate to impose a fine for a breach of the Code, that fine might well be imposed on all the parties mentioned on the terms and conditions, wherever they might be found, in the absence of a clear indication as to who is responsible for the provision of the service, and their correct details. The panel notes that it recommends to all SPs that before signing up any IPs they first investigate those parties’ details thoroughly and ensure that they are in compliance with statutory requirements, as well as the Code.

WASPA alternative appeals panel
Complaint 0610 and 0611

ANNEXURE A – THE ADVERTISEMENT

BLINKO is a hot new subscription service

GET 10 ITEMS A WEEK FOR R5

JOIN THE BLINKO CLUB NOW and receive 10 items of your choice every week for only R5 per week! That is ONLY 50c per wallpaper, ringtone, animation or game! Only codes starting with an A are eligible for the Blinko Club.

BLINKO CLUB SMS CLUB2 to: 31199

WALLPAPERS

AA23213	AA23214	AA23212
AA23357	AA23358	AA23361
AA23199	AA23362	AA23217
AA23205	AA23206	AA23207
AA23378	AA23384	AA23372

ANIMATIONS

GAMES

AA328, AA321, AA322, AA324, AA325, AA323

LEGEND:
NOKIA: 3100; 3200; 3300; 5100; 6100; 6610; 6220; 3230
NOKIA: 6600; 6670; 6500; 7610; N70
MOTO: V500; V600; V360; V980; V3r
ERICSSON: K300; K700; K750; V800
NOKIA: 5140; 6020; 6622; 6230
NOKIA: 660; N90
SAMSUNG: D600; D800

SOUNDALIKES & SFX

SOUNDLIKE	ARTIST	CODE
Beautiful	Xtina	AA70029
Mandy	Westlife	AA70030
Complicated	Avril Lavigne	AA70031
Just Like A Pill	Pink	AA70032
Firestarter	Prodigy	AA70005
Thunderstruck	AC DC	AA70053
Ghost Busters	SFX	AA42024
Home Alone	SFX	AA42025
Psycho Killer	SFX	AA42027
Twilight Zone	SFX	AA42030

SMS HOROS + the first 3 letters of your starsign (e.g. HOROS CAN) to: **31199** (A Horoscope a day for R6/week)

SPECIAL! RINGTONE OF THE WEEK
Get the latest ringtones on your phone!
SMS **ONLY R3 per tone!**
R3 for the Mono
R3 for the Poly
R3 for the Soundalike to: **31199** (A tone every week for only R3/week)

GIRLS STUFF
GET 3 CUTE GIRLY WALLPAPERS EVERY WEEK
SMS **GIRL3** to: **31199** (A CUTE pic)

GET A BABE ON YOUR PHONE EVERY WEEK FOR

ONLY WANT TO DOWNLOAD 1 OF THE ABOVE ITEMS?
If you only want 1 wallpaper, ringtone or game without subscribing to the Blinko Club, then please replace the AA in front of the code with a BA and send the code to: **31199** R5 per download

Terms & Conditions: If you have any problems, please phone 0860 83 55 69. Wallpaper, Poly tones, Video...
To receive your WAP settings, please SMS WAP followed by the make of your phone (e.g WAP Nokia) to 3...
from your network. Blinko may contact you with offers via SMS, e-mail or post. There is a SMS cost of 50c

Annotations:
- Default position is that Blinko is a subscription service
- Only codes starting with "A" are eligible for subscription. (This is supported by opt-in provisions)
- Pricing is clear
- Instructions to alter the default position of subscription are clear: Replace the "AA" code with a "BA" code
- Pricing is clear
- Provision is made for support

**WASPA alternative appeals panel
Complaint 0610 and 0611**

ANNEXURE B – ADDITIONAL INFORMATION PROVIDED BY BUORNGIORNO ON REQUEST OF PANEL

MO's and MT's pertaining to the MSISDN # +27769064815:

date	originated	delivered	service	phone	sender	message	promoter
2006-10-26 14:34:53	2006-10-26 14:34:52		blinko:ayce:ab	31199	+2776906481 5	ab23214	
2006-10-26 14:34:53		2006-10-26 14:35:01	blinko:ayce:ab	+27769064815	27820048350	BLINKO CLUB: Please confirm ur download request NOW by sending YES to 31199	blinko_club_optin
2006-10-26 14:39:12	2006-10-26 14:39:11		blinko:ayce:ab	31199	+2776906481 5	yes	
2006-10-26 14:39:14		2006-10-26 14:39:22	blinko:ayce:ab	+27769064815	27820048350	BLINKO CLUB :) Welcome! We are currently processing your order. Notification via SMS will be sent to you...	
2006-10-26 14:39:33		2006-10-26 14:39:42	blinko_ayce_clu b	+27769064815	27820048350	Click here to download wallpapers	blinko_ayce_downloa d
2006-10-26 17:44:08	2006-10-26 17:44:07		blinko:ayce:ab	31199	+2776906481 5	ab23213	
2006-10-26 17:44:10		2006-10-26 17:44:18	blinko:ayce:ab	+27769064815	27820048350	Click here to download wallpapers	blinko_ayce_downloa d

The billing for MSISDN # +27769064815, is as follows:

Date	Time	Service	Amount Billed
2006/10/26	14:39:33	blinko_ayce_subdown	5.00
2006/11/04	11:06:59	blinko_ayce_sub	5.00
2006/11/11	11:10:41	blinko_ayce_sub	5.00
2006/11/18	10:57:25	blinko_ayce_sub	5.00
2006/11/25	11:36:50	blinko_ayce_sub	5.00
2006/12/09	11:22:18	blinko_ayce_sub	5.00
2006/12/16	11:05:59	blinko_ayce_sub	5.00
2006/12/23	11:06:44	blinko_ayce_sub	5.00
2006/12/30	14:02:08	blinko_ayce_sub	5.00

**WASPA alternative appeals panel
Complaint 0610 and 0611**

2007/01/06	11:42:50	blinko_ayce_sub	5.00
2007/01/13	14:40:30	blinko_ayce_sub	5.00
2007/01/20	11:54:47	blinko_ayce_sub	5.00
2007/01/27	10:52:24	blinko_ayce_sub	5.00

The other MSISDN # +27736875071, is not and never was subscribed to any of our services that we offer*.

* Panel comment: This was probably the number used by the adjudicator to test the service.