



## REPORT OF THE ADJUDICATOR

<b>WASPA Member (SP):</b>	Smartcall Technology Solutions
<b>Information Provider (IP):</b>	Andromeda Cellular Gateway
<b>Service Type:</b>	Various
<b>Complainant:</b>	Monitor
<b>Complaint Number:</b>	12307
<b>Code Version:</b>	10.0
<b>Advertising Rules Version:</b>	N/A

### Complaint

Complaint was logged by the Monitor regarding the format of the IP's WAP Page and subsequent procedures, which involved Adult Content.

The Monitor launched various tests of the disputed site and exchanged communication with the IP and SP.

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### Service and Information Providers' response

The SP directed the Secretariat to the IP who subsequently responded.

The IP re-acted to various tests conducted by the Monitor ensuring compliance with most issues.

The final response from the SP was that all the issues have been addressed by its IP.

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### Sections of the Code considered

8.1.1. Any adult service must be clearly indicated as such in any promotional material and advertisements.

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### Decision

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her. The Adjudicator has taken note of the Complaint and the SP's and IP's formal response.

The adjudicator has to commend the SP and IP in this matter for its fast response and subsequent effort in aligning itself to the Code.

This does however not deter from the fact that the SP and more particularly the IP in this matter had in fact committed various breaches of the Code.

The Adjudicator can only assume that the SP in its final response is under the impression that its IP is fully compliant with the Code.

Without the presence of a final test from the Monitor, these facts are hard to determine.

Certain of the differences in opinion between the Monitor and SP have been clarified by WASPA, which relates to some of the alleged braches.

The Adjudicator has however taken note of the fact that the disputed site is of an adult nature and could not verify whether its alleged breach in terms of section 8.1.1 was rectified.

The alleged breach was evidenced by a failure of the IP to display the 18+ on ALL its promotional material, and therefore on every page.

The Adjudicator has not been satisfied, having perused the tests conducted and subsequent responses from the SP and IP, that these alleged breaches have indeed be rectified and therefore finds the IP in breach of section 8.1.1.

The Complaint is upheld.

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## **Sanctions**

In determining an appropriate sanction, the following factors were considered:

- The prior record of the IP with regard to breaches of the relevant sections of the Code of Conduct;
- The IPs' subsequent response.

The IP is formally reprimanded for its breach of section 8.1.1

The site is to be suspended with immediate effect until the WASPA Monitor can verify that the restricted age is reflected on each page.

The WASPA Secretariat is instructed to advise the Monitor accordingly.