



WASPA APPEAL PANEL REPORT

WASPA Member (SP):	Buongiorno South Africa
Membership Number:	0002
Service Type:	Subscription Services
Source of Complaints:	Public
Complaint Number:	17377, 17376
Code Version (CoC):	Code of Conduct 11.6
Advertising Rules (AR):	2.3
Date of Adjudication:	18 November 2014
Other Adjudications referred to:	

Decision

1. This appeal is a narrowly focussed appeal on a single aspect of the adjudicators finding in complaints 17377 and 17376. In these complaints the adjudicator found that the use of the abbreviation “unsub” instead of “unsubscribe” breached Advertising Rule 1.4.1. Advertising Rule 1.4.1 provides that the word “subscription” may not be abbreviated at all and specifically indicates that the word “unsub” is an incorrect abbreviation. It is worth noting that Advertising Rule 1.4.1 is of general application and not specific to any particular medium.
2. Turning to the Code of Conduct, as indicated by the adjudicator in both complaints the WASPA Code of Conduct clause 11.6.2 specifically mandates that the WASPA member must use the word “unsub” for reminder messages. Bearing in mind that Advertising Rule 1.4.1 is of general application there is clearly a contradiction between Advertising Rule 1.4.1 and clause 11.6.2 of the WASPA Code of Conduct.
3. Any conflict between the WASPA Code of Conduct and the Advertising Rules is addressed in clause 6.1.3 of the Code of Conduct which reads:

“6.1.3. In the case of any conflict between the WASPA Advertising Rules and the WASPA Code of Conduct, the Code of Conduct takes priority over the Advertising Rules.”

4. As a result it is clear that the use of the word “unsub” for reminder messages is not only acceptable but actually required as the WASPA member correctly points out.
5. The logical next question is whether the fact that the word “unsub” must be used in reminder messages has any bearing on the use of the word “unsub” in welcome messages. Welcome messages are governed by clause 11.5.2 of the WASPA Code of Conduct. Unlike clause 11.6.2, no actual wording is prescribed in the clause but rather the WASPA member is required to place the following information (in this order) within a welcome message:

(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 telephone number.

“Clear and concise instructions” are required to unsubscribe from the subscription service.

6. Although the welcome message and the reminder message serve slightly different functions, the notification to the customer that they have the ability to unsubscribe serves the same purpose in both the welcome and subscription message. It cannot be reasonable that the mandatory use of the word “unsub” in one context is suddenly not able to be understood by a customer simply because it forms part of a welcome message rather than a reminder message.
7. As a result we cannot uphold the finding of the adjudicator in complaints 17377 and 17376 and we make the following decision:
 - 7.1. The limited appeal by the WASPA member in respect of complaints 17377 and 17376 is hereby upheld and the sanction of a suspended sentence of R2000 in both complaints is set aside.
 - 7.2. The WASPA secretariat is directed to refund the appeal fee to the WASPA member.