



## REPORT OF THE ADJUDICATOR

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| <b>WASPA Member (SP)</b>                     | Sybase 365             |
| <b>Information Provider (IP)</b><br>(if any) | Blink International BV |
| <b>Service Type</b>                          | Subscription service   |
| <b>Source of Complaints</b>                  | Anonymous              |
| <b>Complaint Number</b>                      | 2047                   |
| <b>Date received</b>                         | 10 September 2007      |
| <b>Code of Conduct version</b>               | 5.3                    |

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### Complaint

An anonymous complainant who is employed by a WASP lodged a complaint via the WASPA website on 10 September 2007. The complaint claims that a television advertisement showcasing a fish aquarium wallpaper/screensaver invites users to send the keyword FISH to 31631 to “turn your mobile into an aquarium”. When a user sends in the keyword FISH in order to download the screensaver he/she is sent the item and automatically subscribed to the service. The complainant alleges that this is a clear violation of section 11.1.2 of the WASPA Code of Conduct insofar as it equates to “bundling”.

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### SP Response

The IP in this matter is also a member of WASPA. The SP’s response includes a substantive response from the IP to the complaint. The IP, in its response, has enclosed a copy of the advert and highlighted the following steps taken to alert users to the fact that the advertised content item is part of a subscription service offering:

1. The text box in the upper right hand corner clearly states the following:

“R10/logo. Subscription service”

2. The following text appears in the lower part of the screen:

*“This is a subscription service. Unsubscribe? Text Fish stop to 31631. You will be charged R10 per logo until you unsubscribe”*

The advertised content item is one of the screensaver graphics on offer to users of the subscription service.

The IP also alleges that the advertisement has not been flighted on TV since 18 August 2007.

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### **Sections of the Code considered**

Section 11.1.2 of the Code and Rule 1.6 of the Advertising Rules.

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### **Decision**

I have examined the advertisement complained of and I am of the view that it is clear from the advert in question that the IP is offering a subscription service and that the advertising screensaver is but one of the screensavers available to users of the service. I find no evidence of bundling here.

Although not part of the complaint, I wish to mention that the pricing information for the service as advertised is not completely in line with the Advertising Rules. The frequency of the charges and the total cost of the service does not appear. However the advert is no longer being flighted and therefore this issue is not relevant.

I therefore find that there has been no contravention of the Code or the Advertising Rules and the complaint is accordingly dismissed.