



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	Mira Networks (Pty) Ltd
Information Provider (IP):	US Cellcom LLC
Service Type:	Subscription
Complainant:	Public
Complaint Number:	20980
Code Version:	12.4
Advertising Rules Version:	Not applicable

Complaint

The complainant received the following SMS:

Congrats [REDACTED] U are the WINNER! Join 200 Prize draws and claim your R1,200 Reward Today. Send WIN to 44364 Ws8/subscription@R7/day. Optout?TxtStop

When she followed up, she realised that she was not the winner, but would simply stand in line to win if she subscribed.

She submitted that this is misleading.

WASP's response

In response, the WASP submitted that the complainant had been unsubscribed.

Sections of the Code considered

9.1.7. Competition services and promotional material must not:

- (a) use words such as 'win' or 'prize' to describe items intended to be offered to all or a substantial majority of the participants;
- (b) exaggerate the chance of winning a prize;
- (c) suggest that winning a prize is a certainty;
- (d) suggest that the party has already won a prize and that by contacting the promoter of the competition, that the entrant will have definitely secured that prize.

11.2.2. 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 a request for a specific content item and may not be an entry into a competition or quiz.

Decision

For me there are two issues here:

1. The complainant was told that "U r the WINNER!" and "claim your R1200" and "Reward today" when in fact, *ex facie*, she had not won anything and would merely be entered into a competition;
2. The request for subscription was 'bundled' with the entry into a competition.

The WASP has not put anything before me to contradict this version, or to explain its actions.

The WASP is therefore in breach of clauses 9.1.7 and 11.2.2.

Sanctions

I consider the breaches to be fundamental principles of the Code of which any ethical WASP is expected to be aware. In addition, I am unimpressed by the WASP's failure to deal with the merits of the complaint.

I fine the WASP R100 000 in respect of the breaches, the fine representing a fine of R50 000 for each breach.