



REPORT OF THE ADJUDICATOR

WASPA Member	AMV Holdings Limited
Service Type	Adult, Subscription
Source of Complaints	Public
Complaint Number	5927
Date lodged	3 March 2009
Code of Conduct version	6.2

Complaint

This complaint is an elevation of an unresolved unsubscribe request relating to a subscription service offered by the WASPA member. The unsubscribe request was sent to the member on 23 February 2009 and the member confirmed that it had been effected on 24 February 2009.

On 27 February the complainant submitted an initial complaint:

“Please could you provide me with the Company's details who was sending me pornographic links. They are sending exactly the same links to schoolboys and one of your rules in your code of conduct is being violated, and many more.

3.7. Decency

3.7.1. Members will not provide any services or promotional material that:

(g) debases, degrade or demeans.

Another violation. Pornography was never subscribed to. A ring tone was downloaded and pornography is what I then started receiving:

3.8. Number re-use

3.8.1. A service must not be replaced on the same number by another service that might give offence to or might be inappropriate for customers reasonably expecting the original service.

I was never informed of the R6.50 weekly fee. My son, who does not receive itemised billing, gets charged and has no idea of how much and how often. He gets these messages more frequently than once a week.

4.1. Provision of information to customers

4.1.1. Members are committed to honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.

These are just a few violations I have picked up and would therefore like the company's details so that I can take this further. I am in the process of reporting it to Consumer bodies who are very interested in this story."

The member uploaded the following to the WASPA unsubscribe system in response to the initial complaint:

"27836301827 Case Ref 14952

On the 7th July 2008 at 14:40 the user accessed our mobile content site through an advertisement on an affiliates website.

While browsing the internet on their **NokiaE90-1** cellphone the user responded to an advert for our Gamezone WAP site.

The user did not purchase any content and was not charged however they did click on a "claim your free item" link which offered a choice of one free item.

The site states that content purchasers or users who access free content may receive future promotions from us, and that they should sms STOP ALL to 31434 to opt-out, or to call our helpline number.

We have not had an opt-out request from this user.

We have since contacted the user with (free) promotions in relation to other services we offer however the user has not responded and was not charged.

We have now ensured the number has been removed from all future messages. The user has also been sent a free message to confirm that their service has been cancelled."

The member advised further on 2 March 2009 that it saw no reason to contact the complainant as "the user has not incurred any charges".

The amplification of the initial complaint set out below was then submitted by the complainant and sent on to the member on 3 March 2009 and a formal response thereto was lodged with the WASPA Secretariat on 10 March 2009. The complainant thereafter provided additional feedback based on the member's response.

The amplification reads as follows:

"I have contacted that company and spoke to a Chris in Customer Services. Carina Ellis is not available on the number she provides at the bottom of her letter. He was totally unhelpful and would not explain how my number was obtained. I have never ever clicked on a "claim your free link" - and said as much to him. I was asking how one was supposed to unsubscribe to a "FREEMSG" number and he said it was "Common Knowledge" that you had to SMS "Stop" to the required number. When I explained that the number was never available and there were no opt out options available, he said I should have clicked on the link and got the companies details. I told him the link took me to pornography - he didn't have an answer to that. I also informed him that the "Parent Site" had NO contact details. He then went on to tell me I had accessed a pornographic video. When I objected to this he put the phone down on me. I would like to take this further, but the number that is supplied is only answered after about 20 minutes of holding. I would like further details please. This is a fraudulently operated company who is scamming 1000's of people."

In its notice of escalation sent to the member the WASPA Secretariat advised as follows:

"Based on the information provided by the complainant, the WASPA Secretariat believes that there is a possible breach of clauses 4.1.1 and/or 4.1.3 and/or 4.1.5 and/or 4.1.6 and/or 4.1.7 and/or 5.1.2 and/or 5.1.7 of the WASPA Code of Conduct".

SP Response

The following was the response of the member to the complaint as amplified:

"On the 7th July 2008 at 14:40 the user accessed our mobile content site through an advertisement on an affiliates website.

While browsing the internet on their **NokiaE90-1** cellphone the user responded to an advert for our Gamezone WAP site.

The user did not purchase any content and was not charged however they did click on a "claim your free item" link which offered a choice of one free item.

The site states that content purchasers or users who access free content may receive future promotions from us, and that they should sms STOP ALL to 31434 to opt-out, or to call our helpline number.

We have not had an opt-out request from this user.

We have since contacted the user with (free) promotions in relation to other services we offer.

These are **not** adult promotions.

AMV do not operate any adult services in South Africa.

The site features bikini content only, there is certainly no adult content.

The user has not purchased any content and has not been charged.

With regard to [the Complainant]'s comments about her conversation with our call centre and her call being disconnected I can verify that a call will only be ended if a user persists to be rude or aggressive towards staff despite being given warnings to refrain.

In this case having viewed the comments made by the staff member, who took the call, it states that [the Complainant] was asked to refrain from swearing on more than one occasion. Having continued to use extremely abusive language towards the CSA she was advised to call back when she had calmed down, at which point the call was then terminated.

We believe we offer a high level of informative Customer Service however extreme rudeness towards staff will not be tolerated under any circumstances.

We have now ensured the [the Complainant]'s number is Blacklisted from our promotional database.”

Further feedback from the complainant

On 11 March 2009 the Complainant provided the following feedback to the formal response:

“I must say that I am absolutely taken aback by their allegations. I did get extremely agitated with the call centre, but at no stage did I abuse anyone verbally and take exception to this. I waited for 15 minutes before my call was answered, when it was eventually answered Ms Ellis was not available on the number she provided. The “gentleman” was not prepared to answer my questions and offered solutions that I had tried and did not work. He then accused me of downloading porn and when I responded with anger (NO swear words were ever used) he slammed the phone down. I would challenge them to provide a recording of that call and if they cannot they had better desist from their slanderous accusations. I am not the one doing the shady deals and their response smacks of someone trying to deflect attention away from the matter at hand.

While browsing the internet on their NokiaE90-1 cellphone the user responded to an advert for our Gamezone WAP site.

I may have accessed this site, but have no recollection so cannot deny it without. If I did it would have been for a ringtone or a animation (I did download a picture of the Rat in Ratatouille).

The user did not purchase any content and was not charged however they did click on a "claim your free item" link which offered a choice of one free item.

I do not, for the very reason of receiving spam, click on "Claim your free item" links. They are scams and I know that. I work extensively on the internet and know that from experience that you are going to get something you don't want. When I asked Ms Ellis' assistant (Ms Ellis is not available on the telephone number she provides) what free offer I clicked on, he could, or would not tell me. Simply because that is false.

The site states that content purchasers or users who access free content may receive future promotions from us, and that they should sms STOP ALL to 31434 to opt-out, or to call our helpline number.

The site that is advertised on all their SMS's has no opt out option. There are NO contact details supplied at all. The assistant told me I should have followed the link that was sent to me. When I objected and said that the link was to pornographic videos, which I detest, he could not provide another solution. There is NO opt out on any of the SMS's sent. There is NO number provided on any of the SMS's sent. The only details are: "FREEMSG". I suggest you try and to to the "parent" web site and try and find contact details.

We have not had an opt-out request from this user. Simply because it is impossible to find any details.

The ONLY way to opt out is to phone the service provider and ask them to un-subscribe you. I didn't know this and tried it is my last resort.

We have since contacted the user with (free) promotions in relation to other services we offer.

These are *not* adult promotions.

They are most definitely adult promotions. If they are not, why are they marked "XX rated videos", "videos for 18 years and older"

AMV do not operate any adult services in South Africa.

The site features bikini content only, there is certainly no adult content.

I never followed their links so cannot confirm or deny that, their titles mentioned above) suggest otherwise however.

The user has not purchased any content and has not been charged.

With regard to [the Complainant]'s comments about her conversation with our call centre and her call being disconnected I can verify that a call will only be ended if a user persists to be rude or aggressive towards staff despite being given warnings to refrain.

The "gentleman" who responded to my call was totally unhelpful and not prepared to answer my questions. He was evasive and then accused me of downloading porn. I think I was justified in my response!

In this case having viewed the comments made by the staff member, who took the call, it states that [the Complainant] was asked to refrain from swearing on more than one occasion.

That is a total and complete lie. I did not swear at him once and take exception to that. I would like them to listen to any recordings they have with regards this conversation and then provide proof. I am of the opinion that this company lies to cover their tracks and throw any suspicion off their shady dealings.

Having continued to use extremely abusive language towards the CSA she was advised to call back when she had calmed down, at which point the call was then terminated.

Again, I am absolutely astounded at the total lack of moral fibre this company has. I do not, as a matter of principle swear, if they continue to persist on this line of abuse, I WILL seek legal counsel.

We believe we offer a high level of informative Customer Service however extreme rudeness towards staff will not be tolerated under any circumstances.

They do not offer information and are very cagy about their dealings. The agents are untruthful and evasive. Extreme rudeness from the staff member was what I received. Interesting that the agent chose to accuse me. When backed into a corner the best way to respond is with attack.

We have now ensured the [the Complainant]'s number is Blacklisted from our promotional database.

If I can be of further assistance, please let me know.

Again, I would challenge you Lorraine, to try and get hold of Ms Ellis on the number she provides. You will wait for about 20 minutes before an operator tends to your call and when you ask to speak to her the response is: "She is not available on this number". When you ask the agent direct questions they are unable to answer them. A very high level of customer service don't you agree?

After considering the matter further the complainant provided more feedback the next day:

The more I have thought about the previous accusations the angrier I have become. I then tried to access the last message sent to me so that I could then dispute their claims regarding adult content. The link has expired, it was: <http://www.wap.mob365.net/ncsd0jyb-z1vep5-s1aar-eov9.wml> with the Title of "Free Adult Movie". I will SMS the message to you if required. I don't know whether I'm being stupid, but I cannot, from their website, access any

contact details nor details of how to unsubscribe. There are absolutely no contact details on the SMS apart from the words: "FREEMSG". This is not a company that is up front and honest despite their claims to the contrary. I am asking the one other child I know who is still receiving these messages to send me more details. I had given the details of how to unsubscribe so cannot be sure that he has a current message on his phone.

Sections of the Code considered

The following sections of version 6.2 of the WASPA Code of Conduct were considered:

2.1. An "adult service" is any service where the content or product is of a clearly sexual nature, or any service for which the associated promotional material is of a clearly sexual nature, or indicates directly, or implies that the service is of a sexual nature.

2.2. An "adult content service" is any service for the provision of content which has been classified as suitable only for persons 18 years or older by an appropriate body (such as the Film and Publications Board), or content reasonably likely to be so classified.

3.7. Decency

3.7.1. Members will not provide any services or promotional material that:

...

(g) debases, degrade or demeans.

3.8. Number re-use

3.8.1. A service must not be replaced on the same number by another service that might give offence to or might be inappropriate for customers reasonably expecting the original service.

4.1.1. Members are committed to honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.

4.1.3. Each member must provide their full contact details on the member's web site, including the registered company name, telephone and fax numbers, e-mail address and physical address.

4.1.5. Members must have a complaints procedure allowing their customers to lodge complaints regarding the services provided. Members must acknowledge receipt of complaints expeditiously, and must respond to any complaints within a reasonable period of time.

4.1.6. Customer support must be easily available, and must not be limited to a medium that the customer is unlikely to have access to (for example, support should not be limited to email if a significant number of customers do not have access to email).

4.1.7. Any telephonic support must be provided via a South African telephone number and must function effectively. Should the member be unable to provide immediate support, a customer should be provided with the ability to leave a message. Support numbers may not forward to full voice mailboxes.

5.1.1. All commercial messages must contain a valid originating number and/or the name or identifier of the message originator.

5.1.2. Any message originator must have a facility to allow the recipient to remove his or herself from the message originator's database, so as not to receive any further messages from that message originator.

5.1.3. For SMS and MMS communications, a recipient should be able to stop receiving messages from any service by replying with the word 'STOP'. If a reply could pertain to multiple services, either all services should be terminated, or the recipient should be given a choice of service to terminate. The reply 'STOP' procedure should be made clear to the recipient at the start of any messaging service, for example by including "reply STOP to opt out" in the first message sent.

5.1.7. Upon request of the recipient, the message originator must, within a reasonable period of time, identify the source from which the recipient's personal information was obtained.

8.1.2. Promotions for adult services must be in context with the publication or other media in which they appear. Services should be in context with the advertising material promoting them. The content of a service should not be contrary to the reasonable expectation of those responding to the promotion.

8.1.3. Members must take reasonable steps to ensure that only persons of 18 years of age or older have access to adult content services. Explicit confirmation of a user's age must be obtained prior to the delivery of an adult content service.

Sections of the Advertising Rules considered:

9.2.1. Broad Overview

ADULT CONTENT AND AGE-RESTRICTED SERVICES

No Content Services that may directly or indirectly allow persons under 18 years of age to obtain Adult Content and/or any Age-restricted Content may be advertised in media of general distribution, unless an adult verification process (implemented or approved by the mobile network operators) is in place to prevent – as may be reasonably possible - access to that content service by children.

9.3.9 DISTRIBUTION LISTS:

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- A sender to a distribution list may not send any Adult Content, nor send advertisements that link to Adult Content, nor send any advertisements that contain Adult themes, Age Restricted Content sexually suggestive Content and language to consumers that have not previously expressly requested such Content or would not reasonably expect to receive such Content.
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Decision

1. This is a contentious matter characterised by factual conflicts in the versions advanced by the complainant and the WASPA member. In such circumstances the Adjudicator must make a finding on the information and supporting evidence provided by each party.

Unsolicited SMS messages

2. It is evident from the complaint that the complainant is not the sole user of the mobile handset in question and that her son also has access thereto. Furthermore the complainant acknowledges she may have visited the site in question, although she denies clicking on the “claim your free item” link.
3. The logs provided accord with the version of the WASPA member in this regard, which is accepted. This aspect of the complaint is dismissed.

Subscription service

4. The complainant indicated that she was not “informed of the R6.50 weekly fee”. This is confusing as it does not appear that any subscription service was entered into. No finding is made with regard to this aspect of the complaint.

Adult services

5. The WASPA member claims that it does not provide adult services in South Africa. The Adjudicator is aware that there are a number of other complaints relating to the alleged provision of such services in South Africa by the member and that certain of these are currently subject to appeal to the WASPA Appeal Panel.
6. It is also evident that the Complainant, for completely understandable reasons, did not wish to follow any of the links sent to her phone to ascertain whether the services being offered through such links were of an adult nature or not.
7. The decision regarding the nature of the services advertised to the Complainant is critical in determining whether or not there has been a breach of section 8.1.2 or 8.1.3 of the Code.
8. The Adjudicator requested that the member provide readable log files which clearly reflect all interactions between and messages sent to and from the member and the MSISDN 083 630 1827 for the period 1 July 2008 to 1 March 2009. The Adjudicator

required further that such log files should set out the full text of all messages sent to and from the specified MSISDN and any costs to the complainant associated therewith. Set out below is a list of the messages as received at a frequency of one per week between 12 July 2008 and 24 February 2009:

http://wap.mob365.net/ncsd0jyb-zz2ch-s1aar-eph1.wml Free Sexy Movies
http://wap.mob365.net/ncsd0jyb-z1vep5-s1aar-eov9.wml SEE MY HOME VID!
http://wap.mob365.net/ncsd0jyb-z1vep5-s1aar-enwu.wml UR FREE GAME!
http://wap.mob365.net/ncsd0jyb-zz2ch-s1aar-embv5.wml NEW PARIS VID
http://wap.mob365.net/ncsd0jyb-zz2ch-s1aar-elah.wml FREE NAUGHTY VIDS
http://wap.mob365.net/ncsd0jyb-zz2ch-s1aar-ekzr.wml 2x FREE VIDS!
http://wap.mob365.net/ncsd0jyb-zz2ch-s1aar-ekbd.wml NO LIMIT VIDS
http://wap.mob365.net/ncsd0jyb-z1ktix-s19iz-ejvw.wml FREE SEXY VIDS!
http://wap.mob365.net/ncsd0jyb-z11q0x-s1aar-ejbl.wml SEXY VIDS
http://wap.mob365.net/ncsd0jyb-z11q0x-s1aar-eiu5.wml UR FREE GAME!
http://wap.mob365.net/ncsd0jyb-zi9ep-s255v-ei4t.wml COLLEGE GIRLS
http://wap.mob365.net/ncsd0jyb-z14m6x-s1aar-ebxg.wml SEXY VIDS
http://wap.mob365.net/ncsd0jyb-z1ktix-s2dnf-ebti.wml SEXY HOUSEWIFE
http://wap.mob365.net/ncsd0jyb-z14m6x-s1aar-ebic.wml See my Sexy Vids!
http://wap.mob365.net/ncsd0jyb-z1jg55-szhv-eb8u.wml FREE VIDS!
http://wap.mob365.net/ncsd0jyb-z10e6p-s2dnf-eabo.wml COLLEGE GIRL VID
http://wap.mob365.net/ncsd0jyb-z1iujd-s1aar-e9kl.wml UR FREE TONE!

http://wap.mob365.net/ncsd0jyb-z1iujd-s1aar-e9kl.wml COLLEGE GIRL VID
http://wap.mob365.net/ncsd0jyb-z1iujd-s1aar-e9kl.wml SEXY VIDS
http://wap.mob365.net/ncsd0jyb-z14m6x-s1aar-e95c.wml SEXY VIDS
http://wap.mob365.net/ncsd0jyb-z14m6x-s1aar-e95c.wml FREE VIDS!
http://wap.mob-i.net/ncsd0jyb-z14m6x-s1aar-e8qg.wml UR FREE GAME!
http://wap.mob-i.net/ncsd0jyb-z1i0g1-s1aar-e8ai.wml

9. It seems apparent from the above that the services or content emboldened in the above table are such that they will fall within the definition of adult services as set out in the WASPA Code, namely:

“2.1. An “adult service” is any service where the content or product is of a clearly sexual nature, or any service for which the associated promotional material is of a clearly sexual nature, or indicates directly, or implies that the service is of a sexual nature.”

9.1. At the very least the associated promotional material (i.e. the WAP push messages) fall within the definition of an “adult service” insofar as they imply that the service is of a sexual nature.

10. The Adjudicator is further of the view that what is being promoted is in some instances in all likelihood an adult content service as defined in the Code, but makes no finding in this regard given the lack of available evidence.
11. Having made this finding it is found further that the WASPA member has breached section 8.1.2 of the Code in that the promotions of its adult services, i.e. the messages set out above, cannot reasonably be said to be within the context of a request for a free item on the Gamezone site.
12. It also follows that there has been a breach of section 9.3.9 of the Advertising Rules. On the member’s own version there is no indication that promotional messages will be of an adult nature nor is there any reasonable expectation that they would be given the context of the Gamezone site. The Adjudicator is aware that, in responding to similar complaints, the WASPA member has stated that the Gamezone site is an 18+ only site. This

allegation has not been made here and it is in any event not sufficient to simply label a site or service as an adult service without employing an adult verification system.

The abusive telephone call

13. The Adjudicator makes no finding in respect of the allegations raised against the WASPA member pursuant to the Complainant's telephone call with "Chris". It is simply not possible to reconcile the versions advanced by the parties insofar as each accuses the other of being abusive.

13.1. The Adjudicator, in attempting to investigate this aspect further, requested that the SP provide a recording or transcript of the telephone call in question. The following note of the content of the conversation was received:

"Query: Why have I been receiving these messages?

Stopped. I explained the service and charges. She continued to contest that the service had never been accessed. I explained that I had to stick to the facts as they are in front of me and the only way she would be receiving these messages is if someone had used her phone on our service. She became increasingly irate and rude. I asked her to remain calm and stop swearing at me as I would have to end the call but she continued. I ended the call instructing her to call back when she had calmed down".

13.2. Such a note testifying as to the nature of the conversation is, of course, by no means conclusive. Indeed the statement that the operator "explained the service and charges" does not make a great deal of sense within the context of this matter given that no charges were incurred.

Customer service

14. The Adjudicator is cognisant of the fact that the issues raised by the complainant regarding to the customer service provided by the member are not made in isolation but are echoed by other complainants to WASPA as also to other consumer sites such as HelloPeter.

15. The Adjudicator has tested the customer service provided telephonically by the member and found it to be acceptable. The Adjudicator acknowledges that this is not a satisfactory manner of evaluating the claim but nevertheless does not uphold this aspect of the complaint.

Other breaches

16. Although not raised as part of the initial complaint, it is evident that there are breaches of the Code relating to the actual SMS messages sent. The Adjudicator notes that the member has not had the opportunity to respond to such breaches, but is satisfied that the identification of the breaches is based on the message content set out in the logs provided and that such breaches are neither defensible nor capable of remedy.
- 16.1. The messages do not contain a valid originating number and/or the name or identifier of the message originator, which is a breach of section 5.1.1 of the Code of Conduct.
- 16.2. The messages do not contain an opt-out mechanism which is in breach of section 5.1.2 of the Code of Conduct. See <http://www.waspa.org.za/code/download/4973.pdf> and the decision of the WASPA Appeals Panel in http://www.waspa.org.za/code/download/4968_appeal.pdf.
17. The complainant has also alleged that she was unable to locate the member's contact numbers or instructions on how to unsubscribe from its website. From the listing on the WASPA members' page the website for the member is listed as <http://amvholding.com/>. The Adjudicator cannot locate the business name of the member as required by section 4.1.3 and notes that the only support numbers available from the website are UK numbers. Although there is a local support number this is not available from the site.
- 17.1. The Adjudicator further notes that the member does not appear to have a local web presence, with the domain blingmob.co.za taken but not utilised.
- 17.2. The difficulties posed to consumers trying to complain – and who do not wish to incur the expense of an overseas call – is obvious, The member is found to have breached section 4.1.3 read with section 4.1.7 of the Code.

Sanctions

18. There have been a number of complaints of a similar nature raised against this WASPA member.
19. In the Adjudication in respect of Complaint 5235¹ (pertaining to a different wap site but with essentially the same conduct complained about) the following was stated:

“9. Any offence involving minors is to be regarded in a serious light. It is one of the primary purposes of the Code of Conduct to “ensure that children are adequately protected from potentially harmful content”.

10. In the Adjudication under complaint 4673², lodged in October 2008, the same member was found to be in breach of the Code pursuant to a complaint that a minor child had received WAP messages promoting adult content. The member was fined R100 000 after

¹ <http://www.waspa.org.za/code/download/5235.pdf>

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- it was found that insufficient steps had been taken to verify the age of the complainant's son prior to messages with direct links to porn sites. The Adjudication in this matter had not been released as at the time this complaint was lodged.
11. In the Adjudication under complaint 4833³ a different WASPA member was found to have breached section 8.1.1 after not explicitly stating in its promotional material that services accessed would be of an adult nature. The member was fined R50 000.
12. The member has a recent history featuring a high number of adverse findings regarding its services.
13. The Adjudicator accepts that parents bear a primary responsibility in directing their children's use of mobile phones but regards this consideration as being of limited impact in mitigation of the breaches detailed above.
14. Incidents of this nature have a severely prejudicial effect on the WASP industry. Members are required to take the utmost care in ensuring that children are not provided with easy access to adult content.
15. In the circumstances the following sanction is imposed:
- a. the Member is required to immediately review all of its advertising, irrespective of the medium and to withdraw or amend such advertising and the mechanisms behind it to ensure that promotional content for adult services is not sent to any person without reasonable measures having been implemented to ensure such persons are over the age of 18;
 - b. the Member is fined the sum of R100 000, payable within 10 (ten) days of date of notification of this adjudication.
16. The sanction set out in 15 (a) above shall not be suspended pending any appeal of this Adjudication.
17. Any further breach of the code relating to access by minors to adult content will be dealt with in extremely harsh terms.”
20. The Adjudication in the above-quoted matter was delivered on 21 June 2009. The matter was not appealed and the fine of R100 000 imposed on the WASPA member was duly paid. The complaint in this matter was made on 3 March 2009, i.e. prior to the finalisation of the Adjudication in respect of Complaint 5235. The Adjudicator has not been able to identify any further breaches relating to those set out in Adjudication 5235 raised as complaints since 21 June 2009, which would appear to indicate that this particular conduct has ceased.
21. Accordingly the Adjudicator does not wish to impose any further direct fine over and above that imposed in respect of Complaint 5235 and Complaint 4673 – a total of R200 000. The Adjudicator does, however, wish to send a clear message to the WASPA

² <http://www.waspa.org.za/code/download/4673.pdf>, currently on appeal

member and to other WASPA members that the exposure of children to adult content or the possibility of obtaining adult content will not be accepted.

22. With regard to the breaches of sections 5.1.1 and 5.1.2 the Adjudicator has considered relevant precedent and the record of the member. The difficulties in unsubscribing from promotional lists experienced by the complainant as a result of the non-compliance are highly undesirable for the WASP industry. These breaches were not identified or sanctioned under Complaint 5235.
23. In the circumstances the following sanction is imposed:
- 23.1. In respect of the breaches of sections 8.1.2. of the Code and 9.3.9 of the Advertising Rules:
- 23.1.1. The member is fine the sum of R300 000, payment of the whole of which is suspended for a period of one (1) year subject to the member not being found to have breached these sections together with section 8.1.3 during that period, calculated from date of this Adjudication.
- 23.1.2. The member is ordered to suspend, for a period of six (6) months, any promotion or marketing of adult services or content. The imposition of this sanction is likewise suspended for a period of one (1) year subject to the member not being found to have breached the sections specified in 21.1.1 during that period. In imposing this sanction the Adjudicator is mindful of the assertion by the member that it does not provide adult services or conduct adult promotions.
- 23.2. In respect of the breaches of sections 5.1.1. and 5.1.2 and 4.1.3 read with 4.1.7 – all of which relate to the difficulties experienced in contacting the member - the member is fined the sum of R40 000, payable in full to the WASPA Secretariat within five (5) days of date of receipt of relevant invoice from WASPA.

³ <http://www.waspa.org.za/code/download/4833.pdf>