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This allows each section to be read independently.

LEGAL DISCLAIMER:

No members of WASPA, any of the WASPA Management Committee members, or any other WASPA subcommittee members, the various authors, contributors to and editors of these Rules, the WASPA Secretariat, WASPA employees and WASPA contractors, any WASPA Code Of Conduct Adjudicators, as well as any other WASPA's administrators shall be held liable for any consequences that may arise from implementation of these Advertising Rules, or from failure to implement them.

These Rules do not constitute legal advice, nor are they warranted as legal advice. Anyone who wishes to rely upon or implement these rules or to abide by any national law or regulation referred to in this document is strongly advised to seek proper legal counsel.

If necessary, you should also contact the Mobile Network Operator (or a Wasp where applicable) you are contracted to for advice and/or for any updates or implementations of their Wasp conduct and advertising rules.

WASPA reserves the right to immediately alter these Advertising Rules if so directed by any State body or court of law, and/or where circumstances arise.

The latest version of these Advertising Rules will always be available at www.waspa.org.za.

INTRODUCTION:

- These Advertising Rules are published by WASPA pursuant to Section 6 of the WASPA Code Of Conduct v3.2. These Advertising Rules are referred to in the WASPA Code Of Conduct v3.2 as being "Advertising Guidelines." The term "Advertising Guidelines" shall accordingly be construed together with the term "Advertising Rules" as being one and the same.
- The "Advertising Rules" shall be henceforth be referred to in this document as the "Rules."
- These Rules are enforceable from 1 January 2006.
- These Rules form an integral part of the WASPA Code of Conduct v3.2 and should be read concurrently with the Code Of Conduct.
- These Rules have been formulated to provide best practice for the advertising of Content and Content Services by WASPs and their Information Providers in South Africa who use the South African mobile networks for access to their Content and services.
- The Rules have been devised to be specific to various advertising mediums which Content providers may utilize. Each medium has its own formatting and display variations which these guidelines attempt to cover.
- Whilst each section can be used as standalone criteria for that media, there are however common criteria to all the media outlined in these guidelines, specifically the information required to be displayed to the consumer, and where the medium requires it, a voice-over explaining critical information.
- Each section relating to the medium it covers will show what information and/or formatting is obligatory or what are minimum criteria. Examples of best practice are also included.
- While this document has specific instructions on formatting, timing and the information required and definitions pursuant thereto, WASPs and their Information Providers may not seek to circumvent these criteria in any way by attempting to exploit any potential loopholes in the Rules where by doing so they may deprive the consumer of the minimum information required to make informed choices as the cost of access to Content/services and the terms and conditions associated with such access.
- Advertising material for Content Services may not contain visual images that constitute or depict explicit sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in an Adult only media that is distributed under restricted conditions.
- For subscription services, providers should take all reasonable steps to ensure that all promotional material, whether in print media, on the Internet, television or transmitted via text message, clearly explains how the subscription service works. Consumers should have ready access to an explanation of their "purchase" and what, if anything, they need to do to access the Content. Great care should be exercised in using the word 'free'.
- We expect all Information Providers and WASPs to act ethically in their dealings with consumers in the best interests of all.
- If any mobile operator provides additional rules in respect of advertising of Access Channels beyond those stated in this document, then the guidelines issued by the Mobile Network Operators where applicable shall prevail.
- The latest version of these Rules will always be available at www.waspa.org.za

DEFINITIONS:

In this document and any annexures hereto, unless inconsistent with or otherwise indicated by the context:

Access channels (or Bearers):

The common PSMS, SMS, IVR, USSD, MMS, 3G or WAP methods of obtaining Content or Content Services or such other methods of obtaining Content or Content Services as may be introduced by the Mobile Network Operators from time to time.

Access Controls

Methods of preventing unrestricted access to mobile content, including (but not limited to) barring, PIN controlled access and subscription only mobile content services.

Access Number:

Any SMS number (whether a long code or short code), MMS number (whether a long code or short code), IVR number (whether a long code or short code), USSD-based number, or any other number that permits the use of an Access Channel.

Access Cost:

The upfront price a user of a service will pay to obtain Content, which may or may not include any Bearer Charges.

Address

A distinct electronic address or mobile phone number of a particular Customer, or any combination of words or numbers that mediates or allows communication with a particular Customer

Adult:

Any persons 18 years or older. (See also 'Child')

Adult Content:

Content classified as suitable only for persons 18 years or older in terms of the mobile network operators' Content guidelines, and/or Content classified (or which would be classified) as XX, X18 and/or F18 in terms of the Films and Publications Act 65 of 1996 as amended.

Adult Media:

Media that has been lawfully authorised to be distributed to and/or viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions as defined in the Films and Publications Act 65 of 1996

Adult Verification System (AVS)

A method implemented and/or recognized by one or more mobile networks, which may include but which is not limited to any form of Access Controls that involves confirmation that a user is of an age that entitles such user to access or use particular services and Content. **[Contact the mobile network operator(s) you are contracted to so as to determine which AVS methods are appropriate for and/or approved by that operator]**

Advertising Rules

The advertising rules relating to WASPs as published by WASPA pursuant to Section 6 of the WASPA Code Of Conduct, and which may be amended from time to time. These Rules are referred to in the WASPA Code Of Conduct v3.2 as the "Advertising Guidelines." The term "Advertising Guidelines" shall accordingly be construed together with the term "Advertising Rules" as being one and the same.

Age Restricted Content

Content Services restricted to users above 18 years of age and includes, but is not limited to Adult Content and Gambling Services. The phrase age restricted content services shall be construed accordingly.

Auto-Generation (or Auto-Generated)

In relation to use of Access Channels only, Auto-Generation means the provision of any Content which is generated substantially or wholly as a result of or as part of an automated process.

Automated

In relation to use of Access Channels only, automated means a process which is substantially part of or wholly as a result a process that does not have any human intervention.

Authority

Means ICASA, its successor and/or the relevant regulatory authority vested with and authority in terms of the Independent Communications Authority of South Africa, Act 13 of 2000 and its successors in title, to operation of any telecommunications or broadcasting network or similar systems in the Republic of South Africa (See www.icasa.org.za)

ASASA

The Advertising Standards Authority Of South Africa (See www.asa.org.za)

Bearer(s) [or Access Channel(s)]:

The common PSMS, SMS, IVR, USSD, MMS, 3G or WAP methods of obtaining Content or such other methods of obtaining Content as may be introduced by the Mobile Network Operators from time to time.

Bearer Charges:

The amount charged by a mobile operator for the use of its network from time to time.

Below-The-Line Marketing:

Includes but is not limited to any marketing material that includes Promotional Flyers/Leaflets, CD's, Flash Drives, Promotional Stickers, Scratch cards, Business-card sized leaflets, Small Z-cards, Promotional materials and products, including promotional materials printed on/displayed on any FMCG products. e.g. executive gifts, cool drink tins, beer cans, bottle tops, wrappers, boxes etc

Best Practice:

Suggested method of implementation of the Ad Rules so as to avoid possible infringement.

Cell C

Cell C (Pty) Ltd, registration number 1999/ 07722/07.

Charges/Cost:

The amount incurred by the consumer in accessing the Content services offered

Child

Any natural person under 18 years of age. The term "children" shall be construed accordingly.

Contact Services (also Contact-type or Chat or Flirt or Dating Services)

In relation to Content Services provided by WASPs using Access Channels, Contact Services are interactive communications facilities that allow for interaction between a sender and recipient, where the participants in the interaction may be a human controller of the Service devising responses, an automated system, a combination of human and automated, or which may be human-to-human interaction to the extent that such human-to-human communication is mediated by a machine under the control of the controller of the Contact Service where that machine may select or otherwise control the delivery of a message based on any defined rules, which may include rules relating to the age or any other profiling information of any Customer; or which may include rules based on any words, numbers or combination of words and numbers placed within the body (but not identifying Address) of messages generated by or received by a Customer. The phrase Contact Services shall be construed accordingly. [See also "Live Chat"]

Classified Advertisement(s):

A brief listing usually appearing in print media for items for sale and/or services offered, usually arranged by category. The brief design of the listing is usually distinct from any other advertising format within that media.

Code Of Conduct:

The WASPA Code Of Conduct, as is amended from time to time.

Commercial Message

A message sent by any access channel that is designed to promote the sale or demand of goods or services whether or not it invites or solicits a response from a recipient.

Competition

Any competition or game with prizes or entry mechanism into a draw.

Condition (or Conditional):

In relation to Access Channels, a Condition is any situation or any other state of affairs required for full use of a Content Service, or is any defined or stated requirement necessary for obtaining any result.

Content (or Content Services):

All forms of Content, material, information, applications and/or Value Added Services or Premium Rated Services or activity and includes, *inter alia*; text, data, pictures, voice, graphics, animation, games, video clips, music, sound recording and experiences such as gambling, competitions and voting lines, accessed by and provided by WASPs to Customers via the mobile networks using any Access Channel, but excludes human-to-human communication as provided by the mobile network operators. This exclusion does not apply to human to human communication provided by WASP's. The phrase Content Services shall be construed accordingly

Content Booklet:

A small booklet or Z-card where Content services are displayed. One or more Content providers may provide Content in the booklet. These Content booklets are typically in ISO B3 to B5 size.

Customer

A Subscriber to or user of a mobile network that has indicated a willingness to access a service provided by a WASP

CSD

Circuit Switched Data, a type of communication in which a dedicated channel (or circuit) is established for the duration of the transmission;

Display Text

Any combination of text in any typeface or design, as is used for indicating information on any media.

Distribute (or Distribution)

In relation to any Content, without derogating from the ordinary meaning of that word, distribute includes the sale, hiring out, offer or keep for sale or hire, or exhibition. (See also the "Films and Publications Act 65 of 1996" as amended

<http://www.polity.org.za/html/govdocs/legislation/1996/act96-065.html> & <http://www.polity.org.za/pdf/Films&PublicationAct18.pdf>)

Distribution List

A list containing details of mobile phone numbers or any other electronic address where that list is used as the basis for sending any commercial communications

DVB-H

Digital Video Broadcast Handheld

EBB

"Event Based Billing," an alternative to a fixed band, premium rated tariff, and refers to a mechanism which allows MTN Customers to be "reversed billed" any amount up to a defined maximum.

Event

In the context of use of Access Channels only and any advertising thereof, an event is any situation, suspensive condition, or otherwise foreseeable state of affairs.

ECT Act

Electronic Communications and Transactions Act 25 of 2002, as may be amended from time to time, and including any regulations issued pursuant thereto. [See http://www.acts.co.za/ect_act]

Films and Publications Act 65 of 1996

The Films and Publications Act 65 of 1996 as may be amended from time to time, and including any regulations issued pursuant thereto.

See <http://www.polity.org.za/html/govdocs/legislation/1996/act96-065.html>

As amended by the Films and Publications Amendment Act 18 of 2004.

See <http://www.polity.org.za/pdf/Films&PublicationAct18.pdf>

Gambling

Gambling activity as defined in terms of section 1 of the National Gambling Act No. 7 of 2004. The phrase gambling services shall be construed accordingly.

General Media:

Media that is *not* classed in terms of the Films and Publications Act 65 of 1996 as amended by Act 18 of 2004 as being restricted for viewing and distribution to classes of persons.

GPRS

General Packet Radio Service, a bearer service for GSM that applies a packet radio principle to transfer user data packets

GSM

Global System for Mobile Communications, as defined in the European Telecommunications Standard Institute structure of technical specifications, and which may be amended from time to time.

Human

Any natural person.

Infomercial:

A TV commercial typically 90 seconds or more in length designed to supply information about a product or service as opposed to a specific sales message

Information Provider

Any person on whose behalf a Wireless Application Service Provider may provide a service, and includes message originators.

Internet:

The interconnected system of networks that connects computers around the world using various technologies, including but not limited to the TCP/IP and future versions thereof;

In-View Ads:

Internet Web site-based advertisements that appear in small image boxes on the screen when a particular web page is accessed, and which move across the web page and come to rest in the center of the page

ISO:

International Standards Association

IVR:

Interactive Voice Response

Licence

In the context of Access Channels only, a national Mobile Cellular Telecommunications Service licence, granted and issued to a mobile operator in terms of the Telecommunications Act 103 of 1996 as amended and/or substituted from time to time.

Live:

In relation only to Contact-type services using Access Channels, live means real-time or near-real-time

Live Chat:

In relation only to Contact services provided as a Content Service by a WASP, Live Chat means communication between two humans in real-time or near real-time, either directly or through an intermediary using any Access Channels.

Media:

Any medium or technology that produces any visual, aural or textual result or combination thereof, including but not limited to TV broadcasts, print, radio broadcasts, cinema, email, SMS, MMS, USSD, Internet Web, WAP, DVB-H, Internet, or any other device or technology capable of receiving, viewing, displaying, or playing such result.

Message

In relation to Access Channels only, any communication sent or received by a Customer

Mobile Network (or Mobile Network Operator):

Any entity operating a mobile network, virtual mobile network, or fixed-mobile network pursuant to any license issued by a competent Authority in terms of any law or regulation authorizing such license.

MMS

Multimedia Messaging Service, comprising of a combination of rich media including text, sounds, images and video in an integrated way.

MTN

Mobile Telephone Networks (Pty) Ltd, registration number 1993\0011436\07.

OBS

"Online Billing System," an alternative to a fixed band, premium rated tariff, and refers to a mechanism which allows Vodacom customers to be "reversed billed" any amount up to a maximum of R50

Outdoor Media

Including but not limited to large outdoor billboards, moving media, TV-type displays in indoor or outdoor public places, cutouts, poster sized billboards or smaller indoor billboards visible to the general public where Access Channels are displayed.

Periodic

From time to time

Person

Any natural or legal person.

Pop-Up Ads

Small windows that (suddenly) appear while accessing Internet Web site pages

Premium Rate

In relation to SMS and USSD Access Channels only, any rate that is not part of an in-bundle free SMS or USSD data tariff and which may be higher than the standard rate set by the network operator for that particular Access Channel.

PSMS

Premium Rated SMS. In relation to SMS Access Channels only, any rate that is not part of an in-bundle free SMS data tariff and which may be higher than the standard rate set by the network operator for that particular Access Channel. [See also "Premium Rate"]

Reversed Billed SMS (or MMS)

Any SMS (or MMS) message where the receiver is charged for receiving an SMS (or MMS) message.

Scheduled TV Programme(s)

Any Television programme that has been scheduled by a TV station to be broadcast at a certain time.

SMS

Short Message Service, a mobile data service that allows alphanumeric text of up to 160 characters per message between mobile phones and other equipment

Shortcode:

An access number common to a number of mobile networks.

Standard Rate:

Any rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies.

Subscriber:

Any person that accesses the telecommunications facilities of any mobile network operator.

Subscription Service:

Any service for which a Customer is billed on a repeated, regular basis without necessarily confirming each individual transaction.

Title Safe Area:

The section on a TV/Video display monitor approximately a 30% inward area from all four side of the outer video edge. The video associations of the world have established these areas so that images fall within optimal viewing areas once the video signal is played on a standard television.

Trigger

In respect of use of Access Channels only, a trigger is an event that would require display of any information.

T&C:

"Terms and Conditions" - any conditions attached to access to Content Services that a consumer must be made aware of.

User:

Any person that accesses the telecommunications facilities of any mobile network operator.

USSD:

Unstructured Supplementary Service Data, a technology built into the GSM standard for support of transmitting information over the signaling channels of the GSM network

VAS:

Value Added Services - any Content Services or similar which may incur usage charges that may be higher than the Standard Rate set by the network operator for any particular Access Channel.

VAS (Value Added Services) Rate :

In relation to IVR Access Channels only, any rate that is not part of an in-bundle free minute tariff and which may be higher than the standard rate set by the network operator for that particular Access Channel.

Voice-over:

An announcer in a radio programme or in a TV/cinema programme/infomercial/advertisement

VAT:

Inclusive of 14% South African Value Added Tax

Vodacom

Vodacom (Pty) Ltd, registration number 1993/003367/07.

WAP:

Wireless Application Protocol

WASP

A Wireless Application Service Provider, anyone engaged in the provision of a mobile service, using access channels who signs a WASP contract with a mobile network operator.

Watershed Hours (or Watershed Period):

The time window allocated by broadcasting licensees from time to time for broadcast of restricted Content. Watershed Hours as referred to in this document means the period between 21h00 and 05h00. Such time-based restriction applies only to television services. (See also the "Broadcasting Code of Conduct" available at <http://www.bccsa.co.za>)

Winner(s)

The recipient(s) of any reward or consideration based on the results of a lawful competition.

X18 Classification

The Films and Publications Act 65 of 1996 defines X18 as:

- (I) containing a visual presentation, simulated or real, of explicit sexual conduct which, in the case of sexual intercourse, includes an explicit visual presentation of genitals;
- (II) describing predominantly and explicitly any or all of the acts described in the XX category

XX Classification

The Films and Publications Act 65 of 1996 defines XX as:

- (i) containing a visual presentation, simulated or real of:
 - (a) a person who is, or is depicted as being, under the age of 18 years, participating in, engaging in or assisting another person to engage in sexual conduct or a lewd display of nudity;
 - (b) explicit violent sexual conduct;
 - (c) bestiality;
 - (d) explicit sexual conduct which degrades a person and which constitutes incitement to cause harm; or
 - (e) the explicit infliction of or explicit effect of extreme violence which constitutes incitement to cause harm;

- (ii) it or any independent part thereof, describes predominantly and explicitly the acts defined in clause (I) above.

Z-CARD

A folded paper product. The standard Z-CARD has credit-card sized outer covers and the insert folds out to approximately A4 size. There are numerous variations in the Z-CARD range for both covers and inserts.

1 **INTERACTIVE TELEVISION PROGRAMMES, PROMOTIONAL COMPETITIONS & TELEVISION INFORMERCIALS**

1.1 **SCOPE:**

In cases where Access Channels are utilized, this section applies to:

- Infomercials
- Scheduled TV programming
- In-programme promotions or any interactivity with the audience in scheduled TV programming
- Any promotional competitions in any TV advertising where access to mobile content (eg ringtones) does not form the core of the advertisers normal business activities. *[This would apply for example in competitions for an alcoholic drink where Access Channels are used as the method of entry into a competition related to that drink.]*

Because various TV screen sizes display text at varying resolutions, the display text showing the full cost and the T&C must formulated by the Content provider to be as visible as on a 37cm screen size TV (or less) as on a 51cm, 54cm, 70cm and upwards etc

Note:

See separate Section 2 for TV advertisements for mobile content that may be independently flighted during the scheduled programme time.

1.2 DISPLAY RULES FOR COST AND T&C INFORMATION

1.2.1 BROAD OVERVIEW:

TEXT SHOWING FULL COST AND T&C IS REQUIRED

- Whenever a unique access number is displayed onscreen or is mentioned by an announcer, this event must be accompanied by a display of on-screen text that clearly and simultaneously shows both the:
 - (a) full access cost, **AND**
 - (b) T&Cs associated with that unique access number.

 - This access and T&C text must be displayed in correct placing, format and for the correct length of time:
 - **Display of Access Cost:**
Must be displayed for a minimum of 5 seconds, at each mention by an announcer or display on a screen of an access number in **18 point 'Zurich' font** and placed in a special box or triangle in any top corner of the screen. If advertising a subscription service, the word "Subscription" must **also** be placed in the access cost box/triangle at 12 point Zurich font size. No CAPS (except for the first letter of the word) or *Italics* are permitted for the word 'Subscription'.
 - **Display of T&C:**
Must be displayed horizontally in 15 point (MINIMUM) 'Zurich' font for a **minimum of 5 seconds per mention by an announcer or the display on the screen** of an access number, and in a Title Safe Area. No scrolling of text containing any T&Cs are permitted. No CAPS-only or *Italics-only* text is permitted for the T&C font.
-

SUBSCRIPTION SERVICES

- Any advertisement that has a subscription service component must include:
 - (a) the periodic subscription charge, AND
 - (b) the charging frequency, AND
 - (c) Any additional premium-rated charges that might be applicable to access particular content.

- **Minimum T&C Display Text For Subscription Services:**
"This is a subscription service. You will be charged Rx every week until you unsubscribe, plus R4 per content item."

or

"This is a subscription service. You will be automatically charged R--- every week until you unsubscribe, plus R--- per xxxx"

(where xxxx is the type of service/content offered)

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.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

If on TV, any advertising of adult content on broadcast channels may only be done during the watershed hours defined by a licensed broadcaster and may not contain any sexual content or nudity in excess of that displayed within the programme the advertisement is placed in.

1.2.2 **COST OF ACCESS TEXT DISPLAY RULES**

Trigger:

At any display of, or mention by a voice-over of a unique access number

Display Length:

Minimum 5 seconds per display of an access number

Display Text Font:

'Zurich' font

Display text Font Size & Type:

18 points MINIMUM.

Display text Font position:

In a visible block or triangle in any top corner of the screen

Display text Font Colour:

Contrasted colour superimposed on the block/triangle

Block/Triangle Colour

Contrasted colour behind the display text

Display Text Notes:

- All text must be static
- No CAPS-only or *Italics-only* text is permitted for the T&C font..
- No italics may be used as the display font for the access cost text.
- No text must be placed around the access cost text that may obscure clear reading
- The access cost text must not be positioned or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad
- The access cost text must not be part of a colour scheme that may obscure easy reading of complete details of the access cost
- The access cost text must not be obscured by any background flashing or other visual animations that practically and objectively obscures easy reading of complete details of the cost

Display text example:

R10/SMS

or

**R10/week
Subscription**

1.2.3 **T&C DISPLAY RULES**

Trigger:

At any display of, or mention by a voice-over, of a unique access number

Display Length:

Minimum 5 seconds, at each mention of a unique access number.

Display Text Font:

'Zurich' font

Display text Font Size:

15 points MINIMUM

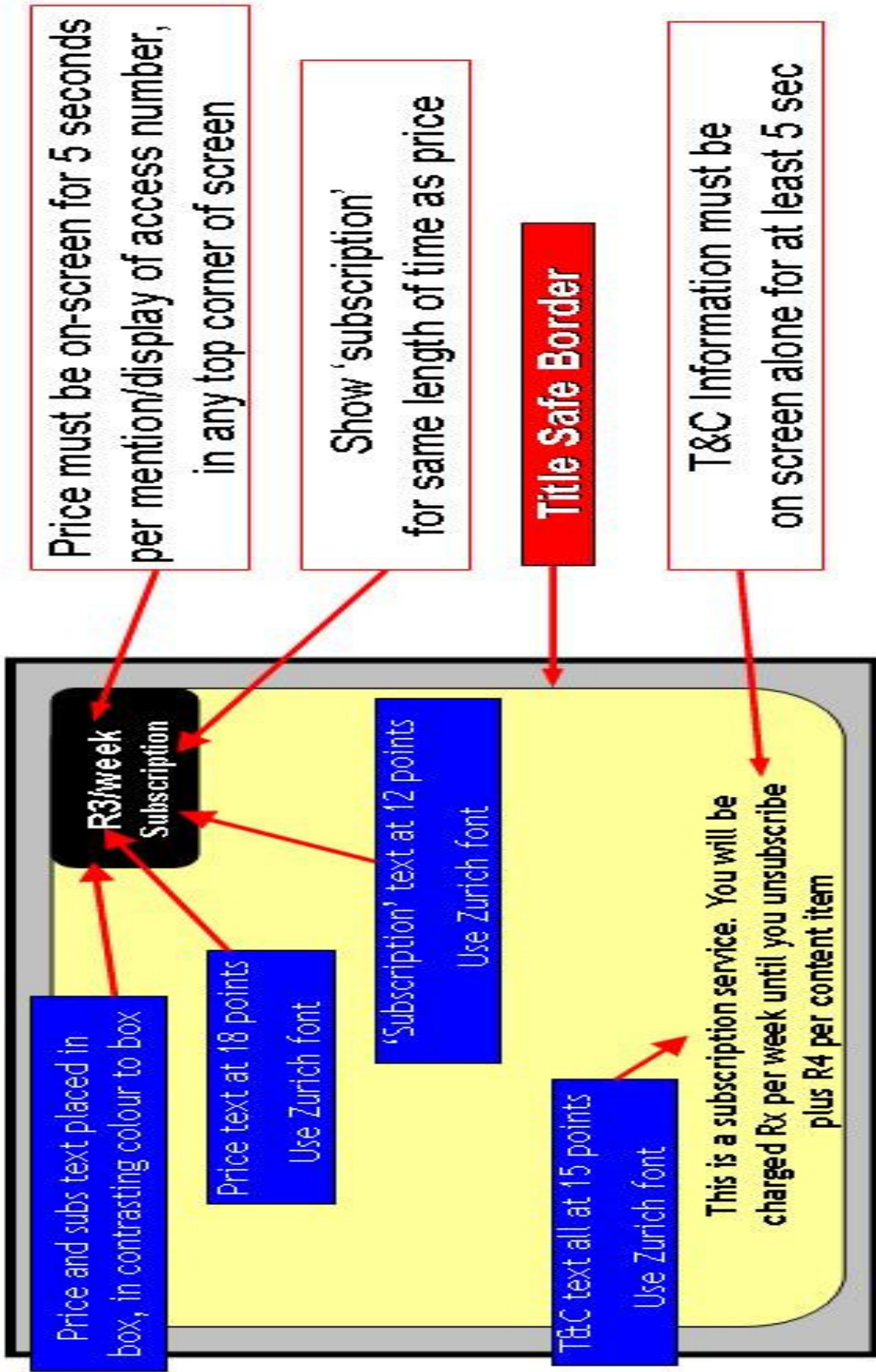
Display Text Position:

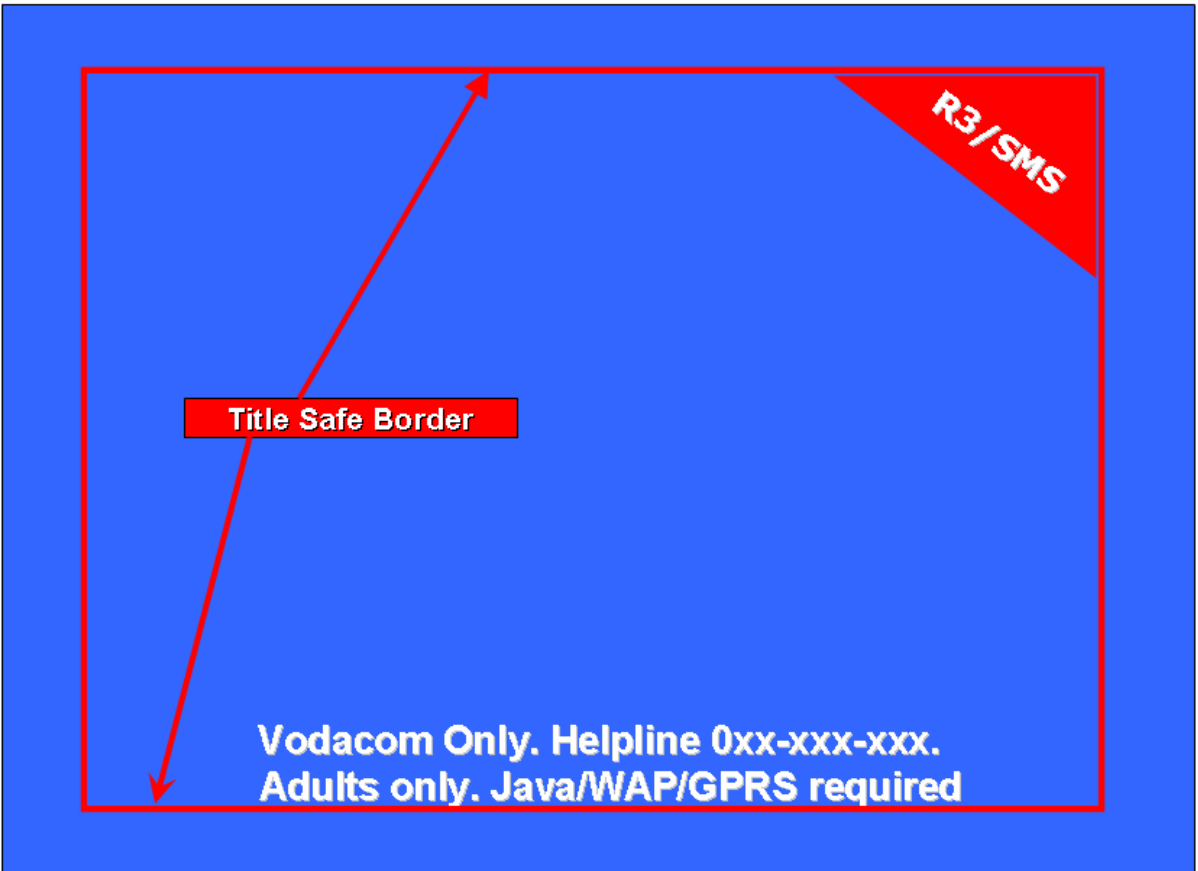
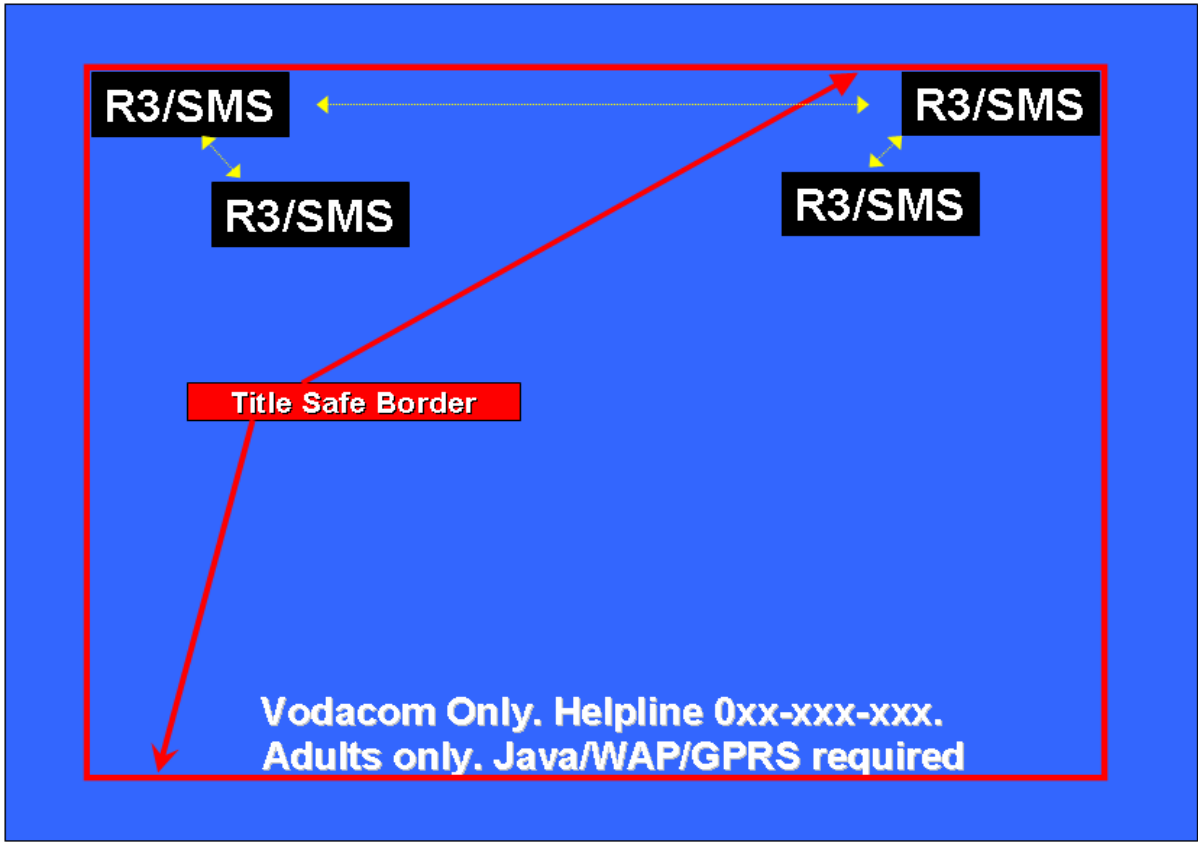
On bottom edge of title face of the screen

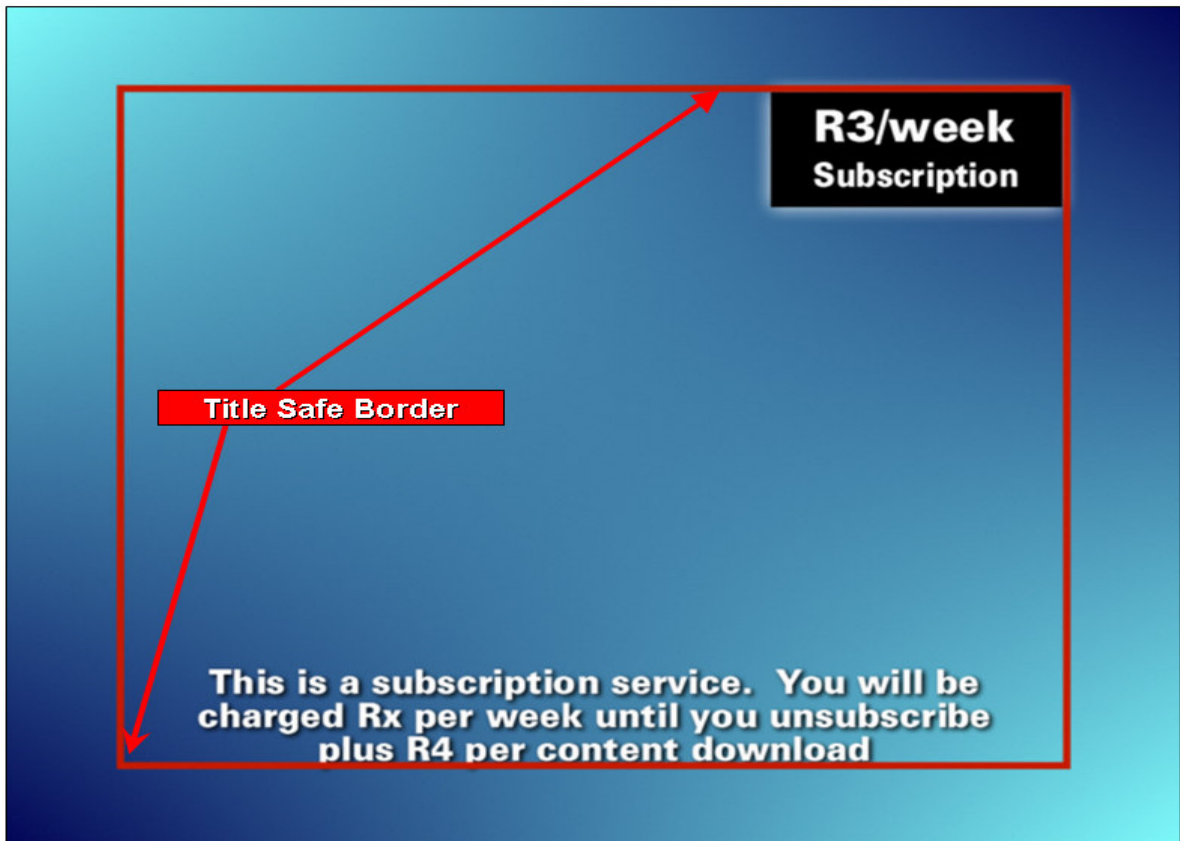
Display Text Type:

- No Caps (except for the first letter of the first word, or for proper nouns) or italics may be used as the display font for the T&Cs
- The T&C text must be static and horizontal for the requisite minimum display time, changing as is necessary to show all the T&Cs in equal time proportion
- The T&C text may not scroll on the screen, either right to left, left to right nor any other direction.
- The T&C text may not be positioned or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad
- The T&C must be formatted so that each sentence is distinct. Each sentence must end with a period.
 - The T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the T&C text

* The T&C text must not be obscured by any background flashing or other visual animations that practically and objectively obscures easy reading of complete details of the T&C text







1.3 GENERAL TERMS

1.3.1 **ADULT SERVICES [See also Age-Restricted Services]**: If the ads used to advertise any Adult Content *themselves* contain Adult Content, these ads are restricted to Adult Media // Ads referring to any Adult Content are restricted under certain conditions // An age verification system must be used for access to any Adult Content. // A warning that users must be 18 years or older to use a service must be shown

- **Advertisements Containing Adult Content (Images/Words/Sounds):**

In respect of the format and design of advertisements which are used to advertise Adult Content Services, if the advertisements *themselves* contain visual images and/or words or phrases that constitute or depict sexual conduct as is defined in the Films and Publications Act 65 of 1996, then these advertisements may only be advertised in Adult media. This restriction applies even if 'stars,' black strips or other attempts at direct visual blocking or disguising of any sexual conduct or explicit nudity are used in an advertisement.

- **Advertisements With References To Adult Content:**

In respect of an advertisement that contains references to Content Services, where that Content constitutes or depicts sexual conduct as defined in the Films and Publications Act 65, **but** where the advertisement itself for that Content does not constitute or depict sexual conduct as defined in the Films and Publications Act 65, then advertisements that so contain references to the (explicit) Content *may* be placed in any media, provided that:

- (a) An Adult Verification System is in place for access to that Content or service, **AND THAT**
- (b) The format, placement and design of the advertisement so referring to the (explicit) Content
 - is in keeping with the general nature, tone and theme of that particular media and is not calculated to offend the audience having access to that media, **AND**
 - abides by any advertising rules set by the owner or controller of that particular media, **AND**
 - conforms to any rulings issued by the ASASA in respect of that particular type of advertisement and media, **AND**
 - conforms to any similar rulings by the WASPA Adjudicator or WASPA Appeals Panel in respect of that particular type of advertisement and media, **AND WHICH**

- conforms to any particular rules set by any mobile operator in respect of use of that Access Channel

- **WATERSHED HOURS:**

For broadcast media (eg TV/Radio) where a policy of watershed hours is implemented, advertisements containing sexually explicit words, images, or sounds:

- (a) may only be broadcast during the watershed hours so defined by a licensed broadcaster,

AND

- (b) may not contain any sexual Content or nudity in excess of that displayed within the programme the advertisement is placed in. For example, if no nudity is displayed within the programme, then no nudity (whether depicted through animation or otherwise) is allowed in the advertisement.

IMPORTANT NOTE:

It is entirely the responsibility of those placing an advertisement to determine which laws apply to its service as well as the extent or not of the Adult nature of the programme advertised in.

Advertisers must thus contact the relevant broadcaster to determine the classification/rating of any programme before placing their advertisements.

- Any advertisement that has reference to Content or services that are legally restricted to use only by Adults must indicate that it is for Adults only and/or that verification of the user's age may be required.

This indication must be placed both in the T&C and in the body of advertisement where the service or Content is advertised.

- No abbreviations to indicate the Adult restriction are allowed (eg '18' or '18+' may not be used).

Rather, text indicating the Adult restriction should use the following terminology:

"Adults Only. Verification of your age may be required." or

"You must be over 18 to view images or hear sounds. Verification of your age may be required." or

"You must be over 18 to enter this competition. Verification of your age may be required."

1.3.2 **Age-Restricted Services** Indicate If Age-Restricted

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services - or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.

Examples of Age-Restricted Services (non-exhaustive list):

- Gambling Services
 - Contact-type services where Children may potentially come into contact with Adults masquerading as Children
 - Adult Content
 - Dating Services
 - Content that does not necessarily fit the definition of Adult Content, but which may contain images, audio or text that is obscene or otherwise unsuitable for access and consumption by Children
 - Competitions with Age Restrictions
- No abbreviations to indicate the Age Restriction are allowed (eg '18' or '18+' only may not be used).

Rather, text indicating the Age Restriction should use the following terminology:

"Adults Only. Verification of your age may be required." or

"You must be over 18 to view images or hear sounds. Verification of your age may be required." or

"You must be over 18 to enter this competition. Verification of your age may be required."

1.3.3 **AVAILABILITY OF CONTENT/SERVICES:** Indicate any restrictions

If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Example: "Live chat not available between 01h00 and 07h00"

1.3.4 **BEARER REQUIREMENTS & CHARGES:** Indicate need for and possibility of additional bearer charges eg WAP

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text in both the body of the advertisement as well as in the T&C must indicate that additional bearer charges may apply.

eg "**R10/Game + WAP charges**"

- [See also '**PRICING**' below]
- [See also '**TOTAL ACCESS REQUIREMENTS**' below]

1.3.5 **COMPETITIONS:** Indicate If Prize Award is Conditional // Must have and show a closing date If Conditional

(Note: This section is not meant to be an exhaustive overview of any possible permutation of competition types. The general guiding principles remain however)

- Promotional material must clearly state any information which is likely to affect a decision to participate, including:
 - the closing date;
 - any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
 - any significant age, geographic, or other eligibility restrictions;
 - any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.
 - any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize

- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.
- Adverts for Competitions must show a specific closing date, except where there are instant prize-winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.
- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text
- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.
- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.
- All correct entries must have the same chance of winning.

Best Practice Suggestion For Instant Notification Of Prize Winners With no minimum requirements entry conditions:

Display text: E.g. "Prizes will only be awarded after 1 Jan 200x"

Display text: E.g. "Competition closes after 1,000 entries received".

Display text: E.g. "Every 50th SMS received wins a prize. Prizes awarded after 1 December 2006."

Best Practice Suggestion For Instant Prize Competitions With Minimum Entry Requirements:

Display text: E.g. "Competition begins after 1,000 entries received. Closes 1 January 2007".

Display text: E.g. "Competition begins after 1,000 entries received. Every 50th SMS received thereafter wins a prize. Prizes awarded after 1 December 2006."

- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.
- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

1.3.6 **CONTACT DETAILS:** Provide web site address AND helpline number/shortcode // Contact details must be displayed as part of the T&C details.

- Advertisers must include a helpline number or a working web site address that has direct applicability and linkage to the advertiser
- If an IVR or SMS system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for contacting the advertiser or as a helpline access, then the fact that this access number is Premium Rated or uses VAS rates must be indicated next to the access number.

- Eg "**Helpline 08x-xxx-xxxx. VAS Rates. Free Minutes Do Not Apply.**

- Note the general rule in v3.2 of the WASPA Code Of Conduct that a Premium Rated SMS number used as a contact number for the advertiser, or as a helpline, or for unsubscribing from a service **may not exceed R1 in total.**

- **Eg : "SMS 'Help' to 31xxx. R1/SMS. Premium Rates. Free SMSs Do Not Apply."**

1.3.7 **CONTACT-TYPE SERVICES:** Indicate If Any restrictions apply to access or use // Indicate if multiple registration or other steps required before full use of advertised service is possible // Indicate Adult and/or Age-Restricted nature of the service if advertised as having sexual content or ordinarily unsuitable for access and use by children // Use AVS if service has Adult Content as defined and/or if Age-Restricted // Indicate source and unsubscribe facility if no contact for more than 10 days

- If a Contact-type service is advertised as containing sexual content or is advertised as having content that, ordinarily, would be unsuitable for children, then advertisements for that service must indicate that it is for use by Adults only.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- If a Contact-type service is advertised as containing sexual content, then an **Adult Verification System** must be used for registration of new users to that Contact-type service.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- Advertisements for any interactive chat, flirt, dating or similar Contact-type services (whether anonymous or not) must indicate whether any restrictions apply to its full use. Eg Time of day, age.
 - [See also "**AVAILABILITY OF CONTENT/SERVICES**" above]
 - [See also Definition of "**ADULT**" above]

- If a user must first successfully complete multiple steps requiring multiple communications to the service before they are able to fully access or use the service as advertised, then this must be specified in the advertisement.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

- If using SMS as the Access Channel for a Contact-type service, each request for a user to respond to a message sent to a user as part of that service must indicate the price of the reply

if the price at any stage of the communication, differs at all from the initial advertised service price.

- If using SMS as the Access Channel for a Contact-type service, and where there has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and no more than 120 seconds if using IVR or any other time-based method as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- If a Contact-type service using IVR as the Access Channel requires the user to first listen to a (recorded) audio before they can access the actual person, service or facility otherwise so indicated or suggested by the wording or design of the advertisement, and this waiting time **exceeds 60 seconds** from the start of the IVR call, then the minimum 'waiting' time must be also indicated.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below"]

1.3.8 **DISTRIBUTION LISTS**: Indicate If Consumer Automatically Placed On List. // No sexual or sexually suggestive Content in list if the list recipient does not request or expect it. // Provide reasonable opt-out procedure // Sender must have direct and recent association with recipient

- If by requesting any Content or accessing a service, the consumer so doing is automatically placed on a distribution list that will continuously or periodically send that consumer further related or unrelated communications from that Content provider or any other Content provider or advertiser, then the T&C text must explicitly specify in the T&C that updates will be sent until cancelled. *[Note that v3.2 of the Code of Conduct specifies that the sender must have a "Direct & Recent" association with the recipient].*

Best Practice Suggestion

Display text: "Updates sent until cancelled"

- 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.
- The sender to a distribution list must indicate the cost and T&C of access to a service in each and every communication, even the receiver was previously a user of that service. No assumption as to the knowledge of the recipient in respect of the costs and T&C of a service must be made for users who had previously used the service.
- If using SMS as the Access Channel and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, must indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and may not be more than 120 seconds if using IVR or any other voice-based system as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- **Opt-Out:** Any further communication with a consumer in a distribution list must contain a relatively easy and unambiguous method for immediately opting-out of any further communications from that distribution list:
 - **Fax:** No premium rated fax lines [eg 0866 fax-2-email type numbers] may be used for the mandatory opt-out procedure.
 - **SMS:** The total cost of opting-out from any distribution list using a premium rated SMSs Access Channel may not exceed R1 total cost
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]
 - [See also v3.2 of "**WASPA CODE OF CONDUCT**"]
 - **IVR (or any other time-based method):** Where applicable, any IVR systems used for any opt-out procedure must be designed so that a reasonable user will not need to exceed 120 seconds (from the start of the IVR call or time-based method) for the entire opt-out process.
 - [See also "**PRICING**" below]
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

1.3.9 **FAILED REQUESTS:** Indicate If Failed Requests Billed

- If for any reason the service bills for incorrect, failed, or unsuccessful requests, then the T&C text must display this (if applicable)

Best Practice Suggestion:

Display text: "Errors billed"

1.3.10 **LIVE SERVICES:** [In relation to live Contact-type services only] Advertisements may not use the word 'live' to describe systems where a recording or an automated system is used in place of a real-time interaction with a human

- No advertisement may be designed or worded in a manner that may create an expectation by a reasonable person that there is real-time or near-real time communication with a human offered as part of the service, where in fact there is no live real-time or near-real-time interaction whatsoever with a human available as part of that advertised service, or where the real time interaction with the human does not constitute the essence of the service

Eg Recordings that simulate "eavesdropping" on purported conversations between two or more persons do not constitute 'live services'.

- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.
 - [See "**AVAILABILITY OF CONTENT/SERVICES**" above]

1.3.11 **NETWORK COMPATIBILITY:** Indicate If Services Are Network-dependent // Indicate if subscription-type dependent

- There must be an clear indication in the advertisement detailing which mobile networks the user must have access to for fully access any Content and/or participate in the service offered
- If only contract-only or prepaid-only users have access to the service, this must be indicated

- 1.3.12 **PRICING:** Show component, bearer and total cost //
Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised

Overview:

The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.

Background:

Note that the term "Standard Rates Apply" as has in the past been used widely is, according to the definitions supplied by all three mobile networks, an **incorrect** description of IVR and PSMS, as a "**Standard Rate**" is only applicable to use of eg free bundled SMSs/Minutes. The original term was "VAS Standard Rates Apply" which was only applicable to IVR access, but which many over time **incorrectly** abbreviated to "Standard Rates" with purported applicability to for both IVR, PSMS, and Premium Rated USSD Access Channels.

Standard Rate: [see Also definition of Standard Rate in the Definition section]

A Standard Rate is a rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies. Thus, where free/bundled SMSs/Minutes cannot be utilized or where the tariff for an Access Channel differs from the in-bundle tariff for any user pursuant to the terms of conditions of the service agreement that user has with a mobile network operator, then term "**Standard Rate**" may not, from implementation of the Ad Rules, be used under those circumstances.

Instead, the following must be used:

For IVR Lines: "VAS Rates Apply. Free Minutes Do Not Apply"

Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".

Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) if the SMSs/Minutes are not available free or in a bundle.

(a) **Bearer Costs:**

If additional WAP/GPRS bearer charges may be incurred over and above any other Access Channel costs, the possibility thereof must be indicated.

eg "**2x R5 SMS = Total R10 + WAP Charges**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below]

(b) **IVR:**

- Any IVR system using a VAS rated Access Channel provided by or through a licensed mobile operator for access to any services or Content must be identified as such, along with a notice that free minutes will not apply.

- If the minimum amount of time the user is required to stay on the line to access the service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised service or Content must be indicated.
- The following is an example of component and total cost indications:

Examples:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reason:

- VAS rate nature of the phone number has not been disclosed
- Inability to use free minutes has not been disclosed
- Minimum amount of time to fully access service/Content has not been disclosed
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below for more detailed requirements]

(c) **USSD:**

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the potential for any additional costs associated with specific menu selections.
 - [See "**USSD ACCESS**" below]

(d) **SMS:**

- The cost of a single (or component) SMS used for access to a service must be indicated.
- If more than one SMS is required to access the service/Content, then the number of SMSs so required and their individual cost for access must be indicated. The total cost involved in accessing the full service based on the cumulative number of SMSs required must also be disclosed.

For example, if a number of SMSs are required for registration before full access and use of an advertised service becomes available to a user, then the possibility thereof and then the number of required SMSs must be indicated.

Eg "2x R5 SMS = Total R10 + WAP Charges"

Eg "3 x R5 SMSs required for service registration. Total cost R15"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below for detailed requirements]

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3a (where NOT part of a subscription service):

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3b (where part of a subscription service that eg has a minimum of 5 weeks subscription):

Correct: "Subscription Service. R5/week for 6 weeks. Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

1.3.13 **SUBSCRIPTION SERVICES:** Show Total Subscription Charge, Frequency of Charge, any bearer charges and any additional charge/s

(i) **Must Use The Words "Subscription Service"**

If the Content provider is providing a continuous, subscription-like or subscription-based service, then the words "Subscription Service" must be prominently displayed at the top section of the advertisement as well as at each Content or service section in the advertisement where various subscription types are displayed.

No acronym, letter (eg "S"), number, abbreviation (eg "Subs"), icon, or any other mark may be used as an alternative to the words "Subscription Service" anywhere in the advertisement when that Content is only available at all and/or at a particular cost as part of a subscription service.

(ii) **Must Indicate Charge/s:**

The advertisement must indicate in the font size, position and type as indicated:

- (a) The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- (b) The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- (c) Whether, in addition to the periodic subscription charges in (a) & (b) above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement. **[See (iii) below]**

This indication must include the potential and cost of any (additional) bearer charges.

(iii) **Must Indicate Cost Of Any (Additional) Per-Content Access**

If in addition to a periodic subscription charge the consumer could additionally be charged on a per-access basis for access to any particular service, Content or class of Content on the advertisement within the subscription period and terms, then the advertiser must make it clear to the consumer that access this Content or service will, over and above the periodic subscription cost, incur additional charges per Content or service access.

The periodic subscription cost, the frequency of the periodic charge, and where applicable, the additional access cost must all be displayed clearly and TOGETHER, in a position immediately above, below, or to the side of the Content, service, or class of Content. There must in particular be an indication whether bearer charges are included or not in the access cost.

- [See also '**BEARER CHARGES**' above)

(iv) **Must Differentiate Clearly Between Multiple Subscription Types**

If in any advertisement there may exist the possibility to subscribe to a number of individual subscription services which would ordinarily each carry a separate but additional subscription charge and associated charging frequency or additional per-Content access charge, then this possibility of the consumer being charged at multiple prices and charging frequency must be clearly indicated.

(v) **Must clearly Differentiate Between Non-subscription and subscription Types if both available in the same advertisement:**

Taking into account the provisions in section 11.1.2 in v3.2 of the WASPA Code Of Conduct on relating to an "**independent transaction**," if an advertisement has components to it that promote

(a) Content that is ordinarily made available to a consumer on payment of a once-off payment for that individual Content without the need to subscribe to that service,

AND

(b) Content that will be available at all, and/or at a particular price or even free only if the consumer subscribes to a subscription service,

then this distinction between the availability of non-subscription and subscription charging must be made clear by unambiguously demarcating in separate sections (and not just wording) the non-subscription portion from the subscription service portion or Content in the advertisement.

The words "Subscription Service" as well as the total charges and any additional access charges and charge frequency for that subscription service must be clearly indicated in the form specified.

ADDITIONAL BACKGROUND NOTES TO SUBSCRIPTION SERVICES:

Any request to be subscribed to a subscription service must be an **INDEPENDENT TRANSACTION** (see s11.1.2 of v3.2 of the WASPA Code of Conduct). Hence subscribers cannot be subscribed to a subscription service through having requested specific Content, or having being made to believe by a (practically) confusing ad design that they are requesting Content on a once-off (non-subscription) basis.

Confusion by consumers may arise in cases where a single advert may indicate the availability of Content to users (usually on a network that has not enabled subscription services) on a once-off basis, as well as on a subscription basis (to users on a network that has enabled subscription services), even though the subscription and non-subscription services may be on a different number range.

If confusing, this may create the scenario where the consumer lacks a specific intention of subscribing to a service (s11.1.2).

To avoid this scenario, advertisers must avoid advertising material designs where subscription service access can be confused with non-subscription services for the same or same type of Content in the same ad. Unless this distinction is made clear, the non-subscription portion of an ad which has as its center the requesting of specific Content (on a once-off basis to users on a network that does not have subscription services) may have the effect of (possibly inadvertently) **breaching** the 'independent transaction' criteria of the subscription portion of the code of conduct (See also s11.1.4 of v3.2 of the Code of Conduct)

1.3.14 **TECHNICAL CONDITIONS FOR ACCESS:** Indicate which users and/or phones can access services

- The display text must indicate whether the service can only be accessed by:
 - (a) Phones with any particular technical specification(s)
 - (b) Any particular time period [See also “**AVAILABILITY OF SERVICES/CONTENT**” above]
 - (c) Any particular bearers [See also “**BEARER CHARGES**” above]
 - (d) Any particular mobile operator networks [See also “**NETWORK COMPATIBILITY**” above]
 - (e) Any particular mobile operator subscription types [See “also **NETWORK COMPATIBILITY**” above]

However, because there are numerous phones on the market each with different technical specifications, it may be impractical to list all these handsets in media which is non-permanent (eg TV/Radio). These must however be shown in permanent media (eg Web/Print)

INDICATE IF SERVICE IS HANDSET-RESTRICTED

[Note: *Best efforts at handset compatibility if restricted to more than 30 handset models*]

- *Nokia Series60 handset required* **or**
- *Java Handset Required* **or**
- *Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS)* **or**
- *Only available for Compatible Handsets. For List, see xyz.co.za/handsets* **or**
- *Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).*

1.3.15 **TOTAL ACCESS REQUIREMENTS:** WAP/GPRS: Indicate if WAP/GPRS require // For SMSs:

Indicate Number Of SMSs required for full access to Content or for registration to allow full use of the advertised service. // For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper // Include possibility of bearer charges if applicable.

o [See also "**PRICING**" above]

• WAP/GPRS

Indicate if WAP and/or GPRS is required for full access to the Content/services.

• IVR:

If an IVR system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for access to any services or Content, and the minimum time a reasonable user would require for minimum access to the advertised service or Content **exceeds 60 seconds**, then the minimum amount of time required for this minimum access to the Content or service must be indicated.

For example, if a Contact-type service, Competition line, or similar service exceeds 60 seconds in total length (from the start of the call) by requiring the user to first listen to for example **2 minutes** (120 seconds) of recorded audio before they can access the actual person, service or facility otherwise so indicated by the wording or design of the advertisement, then this minimum 'waiting' time must be also indicated.

EXAMPLE:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply.
Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reasons:

- No Indication Of VAS Rate nature of 08x access number.
- No Indication that Free Minutes are not available for access to the service.
- (If over 60 seconds waiting time), No minimum call time to access service proper indicated.

- **SMS:**

If more than one SMS is required to access the service/Content (and if additional bearer charges may apply), then indicate:

- (a) The number of SMSs required **AND**
- (b) The individual component cost for access must be indicated **AND**
- (c) The total cost involved in accessing the full service. **AND**
- (d) Any additional bearer or Content/service charges must be indicated.

For example, if a number of SMSs are required for before full access and use of an advertised service becomes available to a user, then the possibility thereof and if so, the minimum number of required SMSs must be indicated in the T&C.

Eg "2x R5 SMS = Total R10 + WAP Charges. Premium Rates. No Free SMSs"

Eg "3 x R5 SMSs required for registration. Total cost R15. Premium Rates. Free SMSs Do Not Apply."

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3a (where NOT part of a subscription service):**

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3b (where part of a subscription service that has eg a minimum of 6 weeks subscription):**

Correct: "Subscription Service. R5/week for 6 weeks.
Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

1.3.16 **USSD ACCESS:** Show Initial USSD Access Charges and Minimum Access times (if over 90 seconds)

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

Best Practice Suggestion:

Display Text: "Initial access cost 20 cents/20 seconds. Minimum 120 seconds."

1.3.17 **VAS/PREMIUM RATES:** Indicate That Free Minutes/SMSs Do Not Apply

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

1.3.18 **VAT:** All prices must include VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

Best Practice Suggestion:

Display Text: "All prices include VAT."

1.4 INFORMATION REQUIRED FOR DISCLOSURE

1.4.1 Where Applicable, The Following Is Mandatory Information That Must Be Displayed In Any Advertisement In Any Media Where An Access Channel Is Advertised:

1. PROVIDE CLEAR INDICATION OF TOTAL COST

- R5/SMS. Premium rates. Free SMSs Do Not Apply.
- R20/game. Premium rates. Free SMSs Do Not Apply. WAP required.
- Two SMSs Required at R--- each. Premium rates. Free SMSs Do Not Apply.
- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply.

2. PROVIDE CLEAR INDICATION OF MINIMUM REQUIREMENTS TO FULLY ACCESS SERVICE/CONTENT

- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply. Minimum 3 minutes.
- Seven SMSs at R--- each for registration. Premium rates. Free SMSs Do Not Apply.

3. INDICATE IF SUBSCRIPTION SERVICE, AND NATURE THEREOF - INCLUDING PRICE AND (MINIMUM) FREQUENCY

- This is a subscription service. You will be automatically charged R--- every week until you unsubscribe.
- This is a subscription service. You will be charged R-- per week until you unsubscribe, plus R—per wallpaper. WAP required.”

4. INDICATE WEB SITE ADDRESS IF REFERRING TO ADDITIONAL T&CS VIA WEB

- Eg xyz.co.za/tc

5. INDICATE CUSTOMER CARE ACCESS NUMBER

- Helpline 0xx-xxx-xxxx for
- For Help, SMS to 3xxxx (R1/SMS)

6. IDENTIFICATION OF WHO IS PROVIDING THE ADVERTISED SERVICE

- NiceCompany (Pty) Ltd

7. INDICATE IF ANY ACCESS REQUIREMENTS

- WAP Required
- GPRS Required
- WAP/GPRS required

8. INDICATE IF SERVICE IS HANDSET-RESTRICTED [Note: Best efforts at handset compatibility if restricted to more than 30 handset models]

- Nokia Series60 handset required **or**
- Java Handset Required **or**
- Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS) **or**

- Only available for Compatible Handsets. For List, see xyz.co.za/handsets
or
- Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).

9. INDICATE IF FAILED REQUESTS OR ERRORS CHARGED

- Errors charged
- Failed Requests Billed

10.INDICATE NETWORK / ACCESS RESTRICTIONS (IF ANY)

- XYZ Network contract subscribers only

11.INDICATE IF ACCESS TO SERVICE AUTOMATICALLY PLACES USER ON A DISTRIBUTION LIST. INDICATE METHOD & COST OF UNSUBSCRIBING.

- We reserve right to contact you. Updates sent until cancelled. Send 'unsubscribe' to 3xxxx (R1)
- Updates sent until cancelled. Send 'stop' to 3xxxx (R1)

12.INDICATE CLOSING DATE AND T&Cs OF COMPETITIONS

- Competition closes 1 January 2006. Winners will be notified by SMS. You must be over 18 to enter

13.INDICATE IF ANY AVAILABILITY RESTRICTIONS

- Live chat unavailable 01h00-07h00

14.INDICATE THAT ALL PRICES INCLUDE VAT

- All Prices include VAT.

15.INDICATE IF ANY AGE RESTRICTIONS

- Adults only. You may be asked to verify your age.

16.Indicate that consent to use service must first be required by bill payer

- Obtain bill payers consent before using this service

2 TELEVISION ADVERTISEMENTS & CINEMA ADVERTISEMENTS

2.1 SCOPE

In cases where Access Channels are utilized, this section applies to:

- TV Advertisements which primarily promote mobile content and where delivery is to mobile devices
- Cinema Advertisements

2.2 DISPLAY RULES FOR COST AND T&C INFORMATION

2.2.1 Broad overview

Text Showing Full Cost and T&C Is Required

- Whenever a unique access number is displayed onscreen or is mentioned by an announcer, this event must be accompanied by a display of on-screen text that clearly and simultaneously shows both the:
 - (a) full access cost, **AND**
 - (b) T&Cs associated with that unique access number.
- This access cost and T&C text must be displayed in correct placing, format and for the correct length of time:
 - **Display of Access Cost:**
Must be displayed statically for 100% of entire ad time in **18 point** 'Zurich' font and placed in a special box or triangle on a top corner of the screen. If advertising a subscription service, the word "subscription" must **also** be placed in the access cost box/triangle in **12 point** 'Zurich' font size. No CAPS or *Italics* are permitted for the word 'subscription'.
 - **Display of T&C:**
Must be displayed horizontally in **15 points** (MINIMUM) 'Zurich' font for a minimum of 10 seconds per mention by an announcer or the display on the screen of an access number, and in a Title Safe Area. If a subscription service, 'subscription' T&C must be visible for a minimum of 5 of the 10 seconds. No scrolling of text containing any T&Cs are permitted. No CAPS-only or *Italics-only* text is permitted for the T&C font.

Subscription Services

- Any advertisement that has a subscription service component must include:
 - (a) The periodic subscription charge, AND
 - (b) The charging frequency, AND
 - (c) Any additional premium-rated charges that might be applicable to access particular content.
- **Minimum Display Time for Subscription T&C**
Of the 10 seconds minimum display time for T&Cs, a minimum of 5 seconds must be allocated to informing the user that they will be subscribing to a subscription service (if applicable ; see attached graphics).
- **Minimum T&C Display Text For Subscription Services:**
"This is a subscription service. You will be charged Rx every seven days until you unsubscribe, plus R4 per content item." Or
"This is a subscription service. You will be automatically charged R--- every 7 days until you unsubscribe, plus R--- per xxxx"

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.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

If on TV, any advertising of adult content on broadcast channels may only be done during the watershed hours defined by a licensed broadcaster and may not contain any sexual content or nudity in excess of that displayed within the programme the advertisement is placed in.

2.2.2 COST OF ACCESS TEXT DISPLAY RULES

Trigger:

At any display of, or mention by a voice-over, of a unique access number

Display Length:

100% of the length of the advertisement

Display Text Font:

'Zurich' font

Display Text Font Size:

18 points MINIMUM

Display Text Font Position:

In a visible block or triangle in a top corner of the screen in the Title Safe Area (see diagrams)

Display Text Font Colour:

Contrasted colour superimposed on the block/triangle

Block/Triangle Colour

Contrasted colour, behind the display text

Display Text Type:

- Text must be static
- No Caps (except for the first letter of the first word) or italics may be used as the display font for the word subscription.
- No italics may be used as the display font for the price text.
- No text must be placed around the access cost text that may obscure clear reading
- The access cost text must not be positioned or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad
- The access cost must not be part of a colour scheme that may obscure easy reading of complete details of the access cost
- The access cost text must not be obscured by any background flashing or other visual animations that practically and objectively obscures easy reading of complete details of the cost

Example:

R10/SMS *or*

**R10/week
Subscription**

2.2.3 **T&C TEXT DISPLAY RULES**

Trigger:

At any display of, or mention by a voice-over, of a unique access number

Display Length:

- Minimum 10 seconds
- If applicable, of the 10 seconds display time for T&Cs, a minimum of 5 seconds must be allocated to informing the user that they will be subscribing to a subscription service.

Display Text Font:

'Zurich' font

Display Text Font Size:

15 points MINIMUM

Display Text Position:

On bottom edge of title face of the screen

Display Text Type:

- No CAPS-only or *Italics-only* text is permitted for the T&C font.
- The T&C text must be static and horizontal for the requisite minimum display time, changing as is necessary to show all the T&Cs in equal time proportion
- The T&C text may not scroll on the screen, either right to left, left to right nor any other direction.
- The T&C text must not be positioned or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad
- The T&C must be formatted so that each sentence is distinct. Each sentence must end with a period.
- The T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the T&C
- The T&C text must not be obscured by any background flashing or other visual animations that practically and objectively obscures easy reading of complete details of the T&C text.

T&C DISPLAY TEXT TYPES (ALL, OR COMBINATION OF EXAMPLES BELOW):

- Two SMSs Required at R--- each
- WAP and GPRS access required
- Adults Only.
- Prize awarded after 1 Jan 20--.
- Free SMS/Minutes do not apply.
- VAS cell rates apply.
- Failed Requests billed.
- Updates sent until cancelled.

Minimum T&C Display Text For Subscription Services:

"This is a subscription service. You will be automatically charged R--- every 7 days until you unsubscribe."

OR: "This is a subscription service. You will be charged R-- every 7 days until you unsubscribe, plus R-- per xxxx".

(where xxxx is the type of content delivered as part of that service)

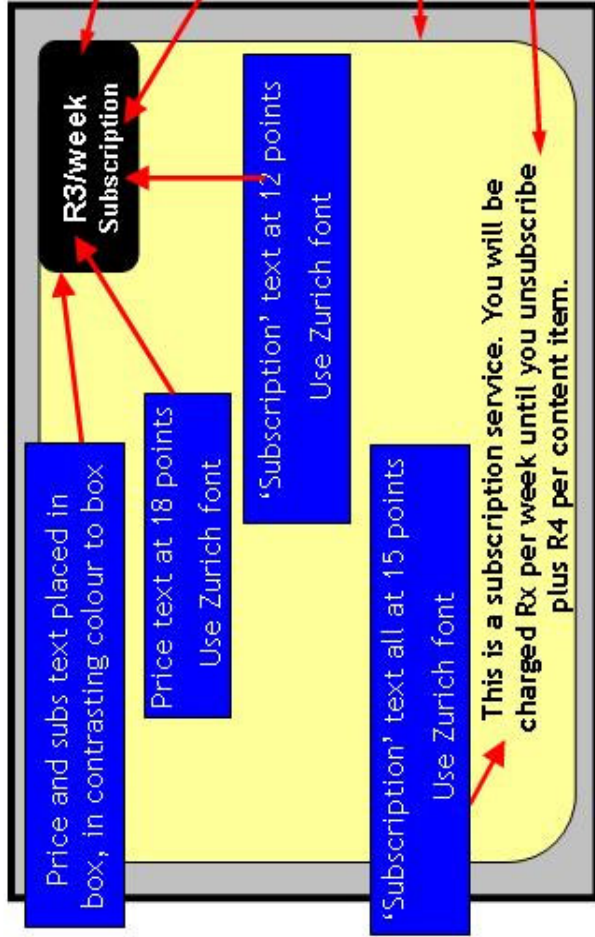
Screen 1

Price must be on screen 100% of ad time in any top corner

Show 'subscription' 100% of ad time in price block

Title Safe Border

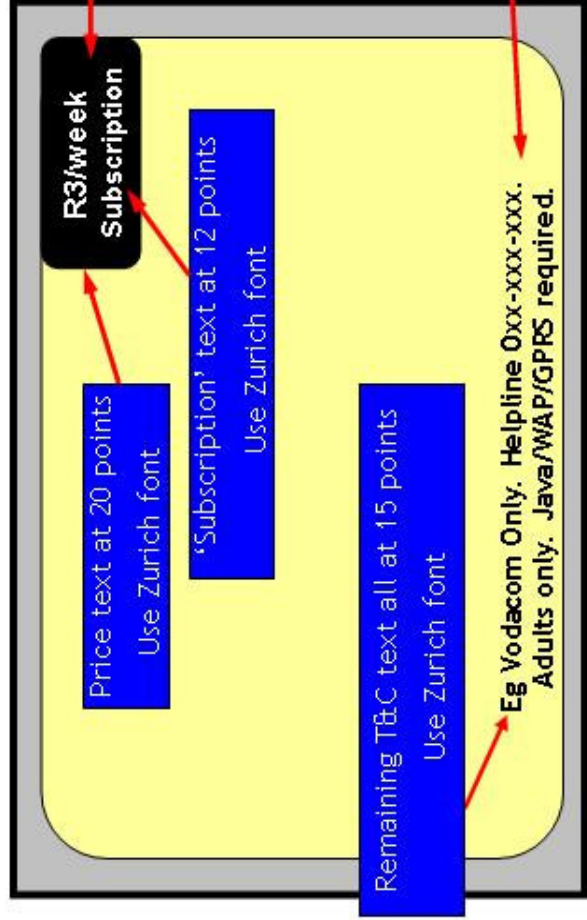
Subscription service T&C must be on screen alone for at least 5 sec

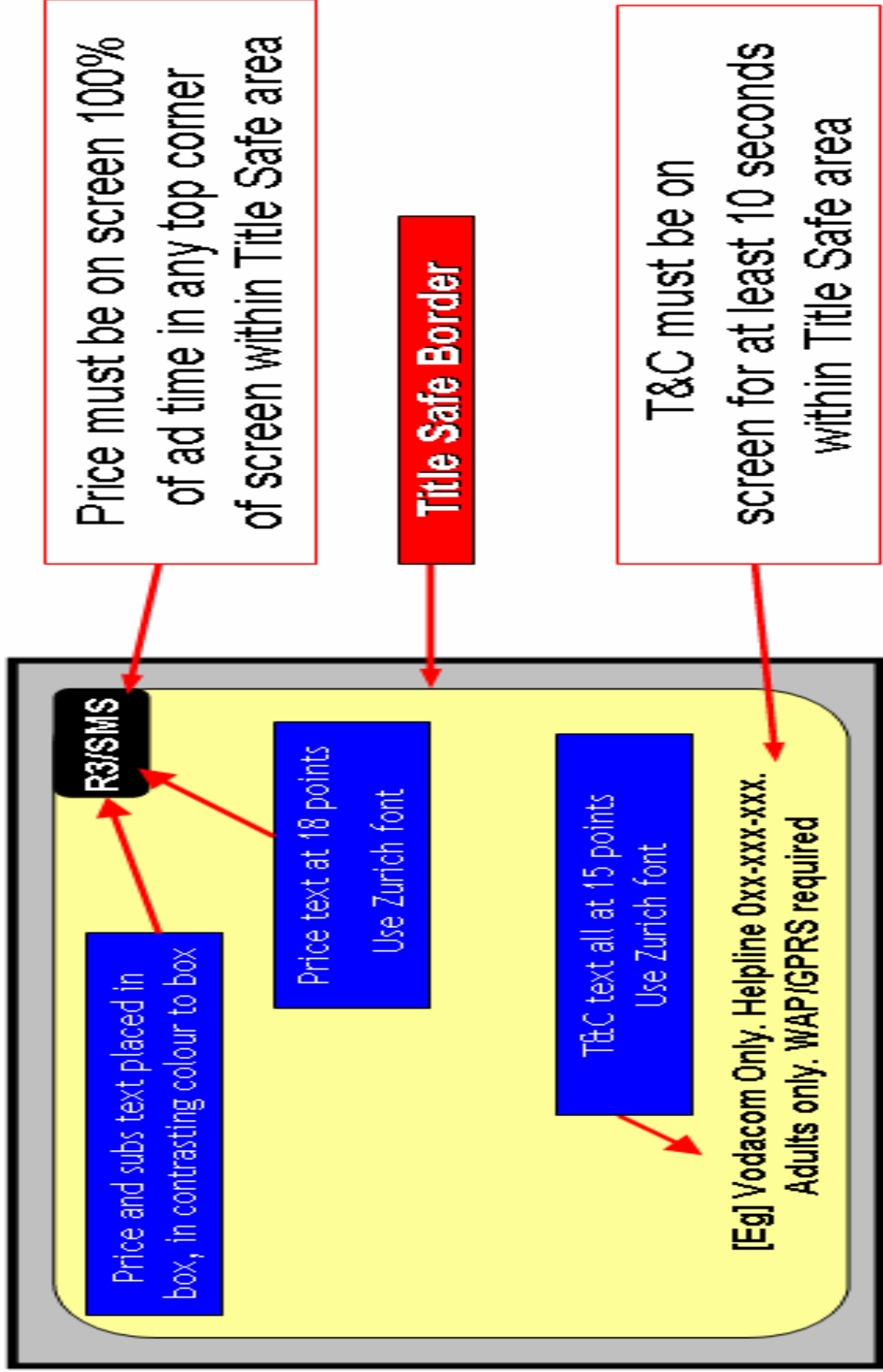


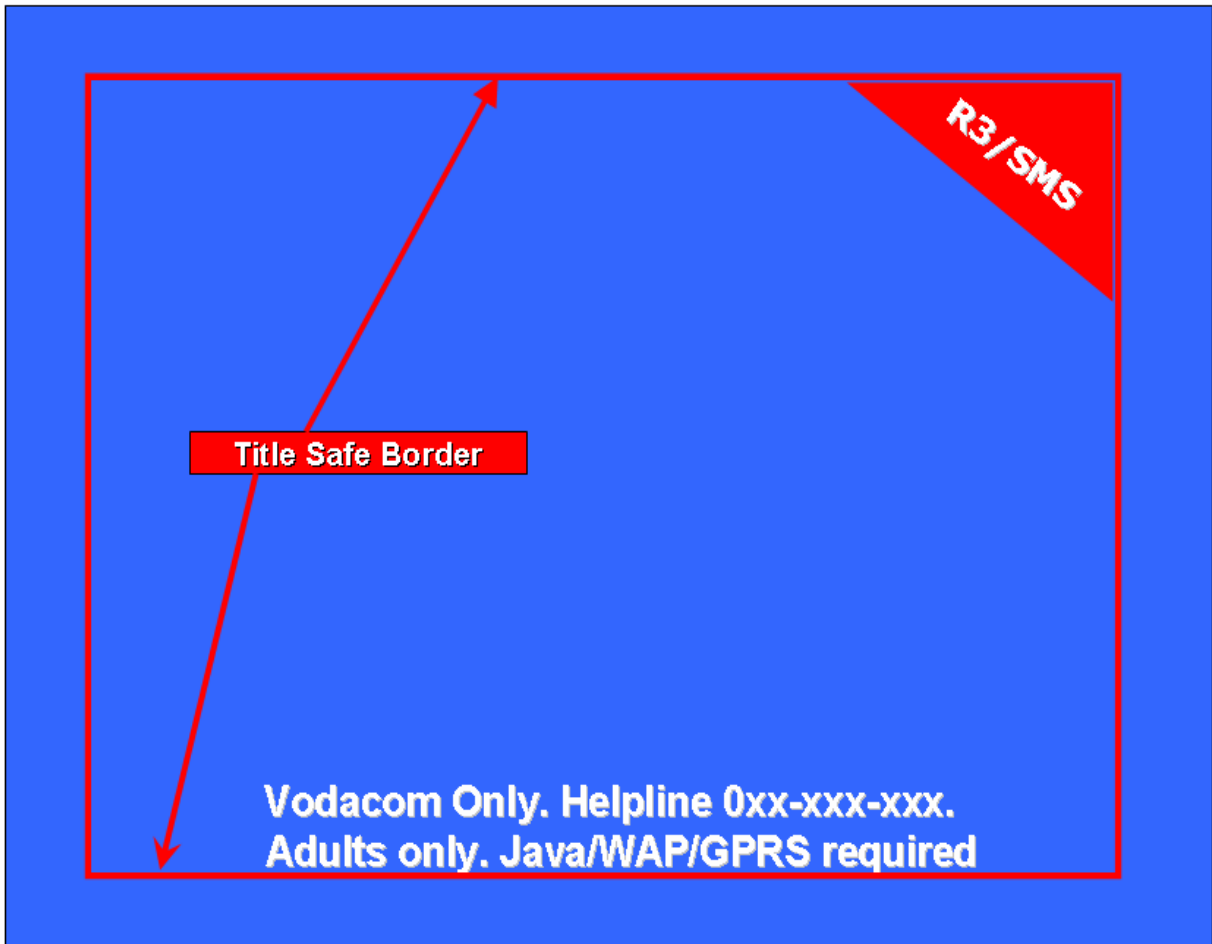
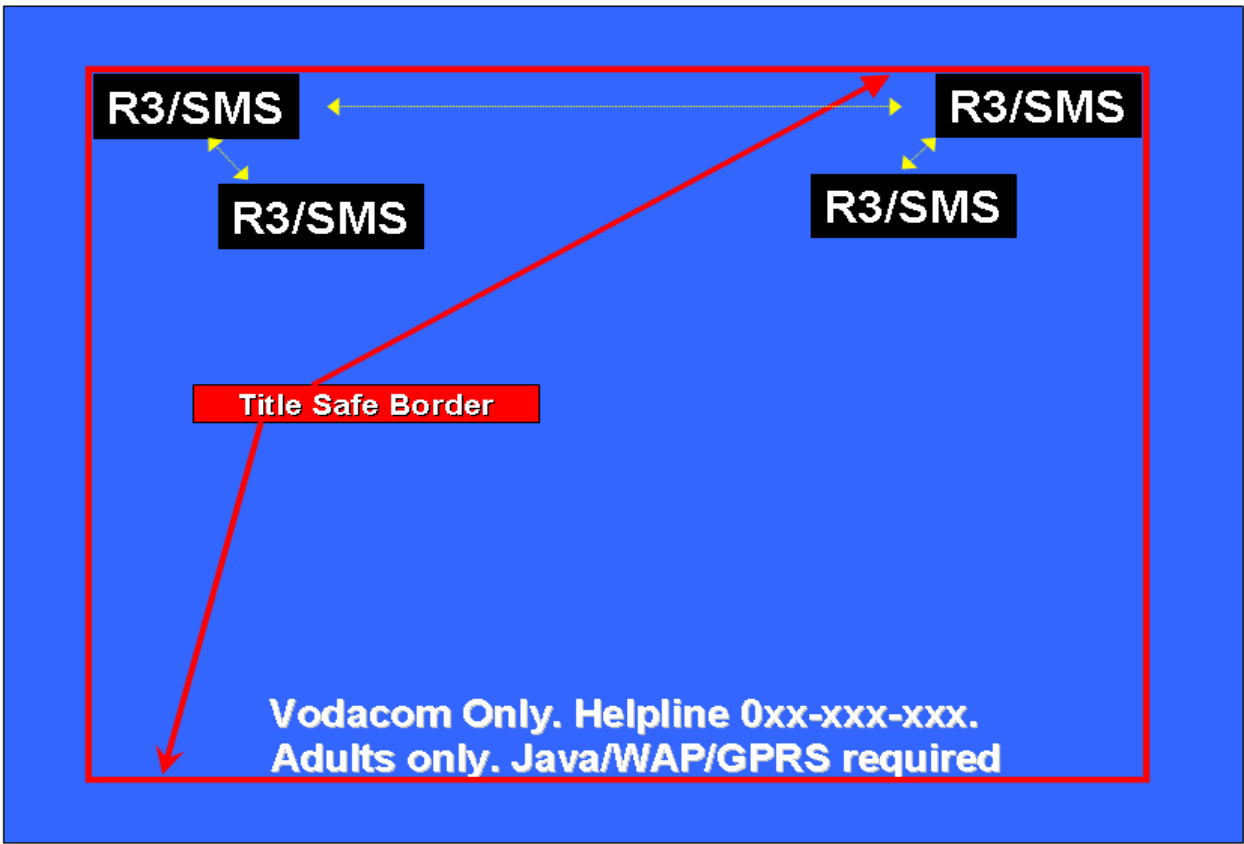
Screen 2

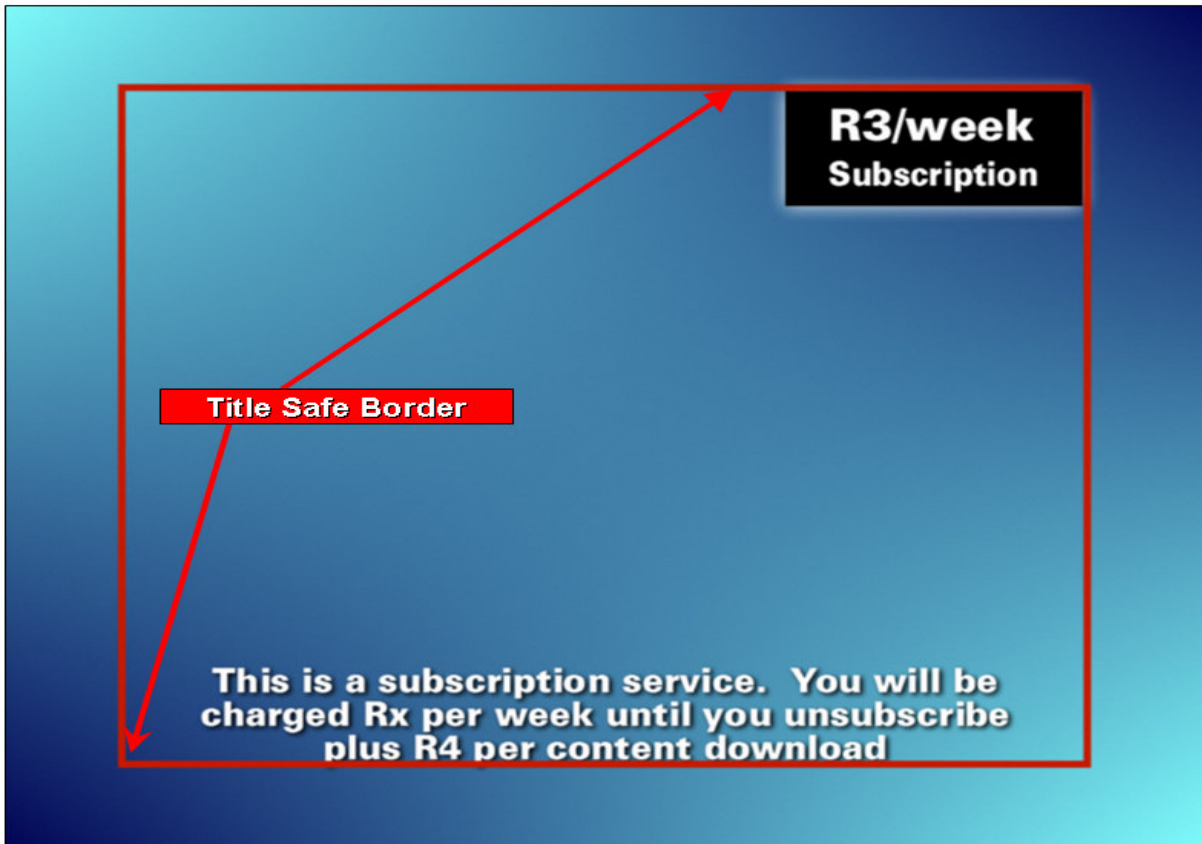
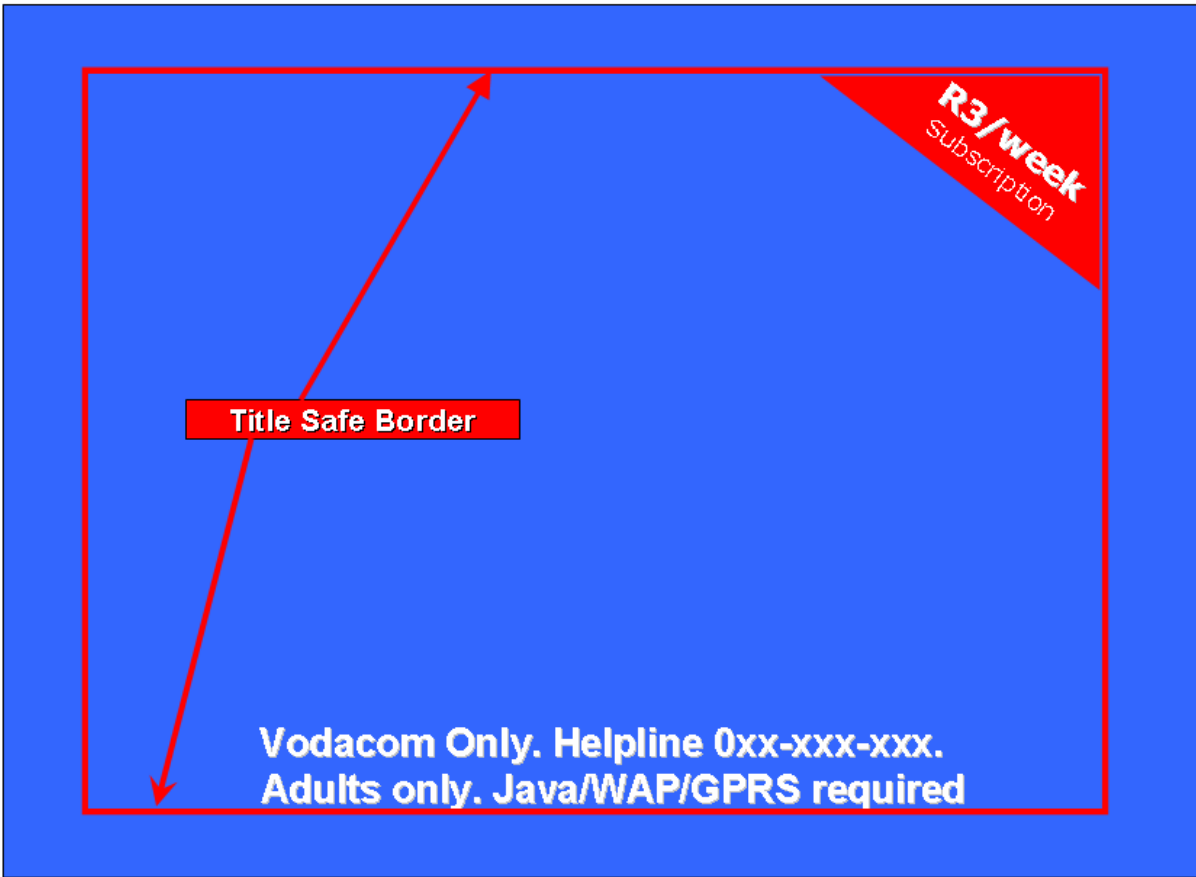
Price and "subscription" text must remain on-screen while the T&C's below change to include the remaining T&Cs

After Subscription info shown, remaining T&C must be on screen for at least 5 more seconds









2.3 GENERAL TERMS

2.3.1 **ADULT SERVICES [See also Age-Restricted Services]**: If the ads used to advertise any Adult Content *themselves* contain Adult Content, these ads are restricted to Adult Media // Ads referring to any Adult Content are restricted under certain conditions // An age verification system must be used for access to any Adult Content. // A warning that users must be 18 years or older to use a service must be shown

- **Advertisements Containing Adult Content (Images/Words/Sounds):**

In respect of the format and design of advertisements which are used to advertise Adult Content Services, if the advertisements *themselves* contain visual images and/or words or phrases that constitute or depict sexual conduct as is defined in the Films and Publications Act 65 of 1996, then these advertisements may only be advertised in Adult media. This restriction applies even if 'stars,' black strips or other attempts at direct visual blocking or disguising of any sexual conduct or explicit nudity are used in an advertisement.

- **Advertisements With References To Adult Content:**

In respect of an advertisement that contains references to Content Services, where that Content constitutes or depicts sexual conduct as defined in the Films and Publications Act 65, **but** where the advertisement itself for that Content does not constitute or depict sexual conduct as defined in the Films and Publications Act 65, then advertisements that so contain references to the (explicit) Content *may* be placed in any media, provided that:

- (a) An Adult Verification System is in place for access to that Content or service, **AND THAT**
- (b) The format, placement and design of the advertisement so referring to the (explicit) Content
 - is in keeping with the general nature, tone and theme of that particular media and is not calculated to offend the audience having access to that media, **AND**
 - abides by any advertising rules set by the owner or controller of that particular media, **AND**
 - conforms to any rulings issued by the ASASA in respect of that particular type of advertisement and media, **AND**
 - conforms to any similar rulings by the WASPA Adjudicator or WASPA Appeals Panel in respect of that particular type of advertisement and media, **AND WHICH**
 - conforms to any particular rules set by any mobile operator in respect of use of that Access Channel

- **WATERSHED HOURS:**

For broadcast media (eg TV/Radio) where a policy of watershed hours is implemented, advertisements containing sexually explicit words, images, or sounds:

- (a) may only be broadcast during the watershed hours so defined by a licensed broadcaster,

AND

- (b) may not contain any sexual Content or nudity in excess of that displayed within the programme the advertisement is placed in. For example, if no nudity is displayed within the programme, then no nudity (whether depicted through animation or otherwise) is allowed in the advertisement.

IMPORTANT NOTE:

It is entirely the responsibility of those placing an advertisement to determine which laws apply to its service as well as the extent or not of the Adult nature of the programme advertised in.

Advertisers must thus contact the relevant broadcaster to determine the classification/rating of any programme before placing their advertisements.

- Any advertisement that has reference to Content or services that are legally restricted to use only by Adults must indicate that it is for Adults only and/or that verification of the user's age may be required.

This indication must be placed both in the T&C and in the body of advertisement where the service or Content is advertised.

- No abbreviations to indicate the Adult restriction are allowed (eg '18' or '18+' may not be used).

Rather, text indicating the Adult restriction should use the following terminology:

"Adults Only. Verification of your age may be required." or

"You must be over 18 to view images or hear sounds. Verification of your age may be required." or

"You must be over 18 to enter this competition. Verification of your age may be required."

2.3.2 **Age-Restricted Services** Indicate If Age-Restricted

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services - or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.

Examples of Age-Restricted Services (non-exhaustive list):

- Gambling Services
 - Contact-type services where Children may potentially come into contact with Adults masquerading as Children
 - Adult Content
 - Dating Services
 - Content that does not necessarily fit the definition of Adult Content, but which may contain images, audio or text that is obscene or otherwise unsuitable for access and consumption by Children
 - Competitions with Age Restrictions
- No abbreviations to indicate the Age Restriction are allowed (eg '18' or '18+' only may not be used).

Rather, text indicating the Age Restriction should use the following terminology:

“Adults Only. Verification of your age may be required.” **or**

“You must be over 18 to view images or hear sounds. Verification of your age may be required.” **or**

“You must be over 18 to enter this competition. Verification of your age may be required.”

2.3.3 **AVAILABILITY OF CONTENT/SERVICES:** Indicate any restrictions

If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Example: “Live chat not available between 01h00 and 07h00”

- 2.3.4 **BEARER REQUIREMENTS & CHARGES:** Indicate need for and possibility of additional bearer charges eg WAP

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text in both the body of the advertisement as well as in the T&C must indicate that additional bearer charges may apply.

eg "**R10/Game + WAP charges**"

- [See also '**PRICING**' below]
- [See also '**TOTAL ACCESS REQUIREMENTS**' below]

- 2.3.5 **COMPETITIONS:** Indicate If Prize Award is Conditional // Must have and show a closing date If Conditional

(Note: This section is not meant to be an exhaustive overview of any possible permutation of competition types. The general guiding principles remain however)

- Promotional material must clearly state any information which is likely to affect a decision to participate, including:
 - the closing date;
 - any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
 - any significant age, geographic, or other eligibility restrictions;
 - any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.
 - any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize

- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.

- Adverts for Competitions must show a specific closing date, except where there are instant prize-winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.

- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text
- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.
- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.
- All correct entries must have the same chance of winning.

Best Practice Suggestion For Instant Notification Of Prize Winners With no minimum requirements entry conditions:

Display text: E.g. "Prizes will only be awarded after 1 Jan 200x"

Display text: E.g. "Competition closes after 1,000 entries received".

Display text: E.g. "Every 50th SMS received wins a prize. Prizes awarded after 1 December 2006."

Best Practice Suggestion For Instant Prize Competitions With Minimum Entry Requirements:

Display text: E.g. "Competition begins after 1,000 entries received. Closes 1 January 2007".

Display text: E.g. "Competition begins after 1,000 entries received. Every 50th SMS received thereafter wins a prize. Prizes awarded after 1 December 2006."

- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.
- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

2.3.6 **CONTACT DETAILS:** Provide web site address AND helpline number/shortcode // Contact details must be displayed as part of the T&C details.

- Advertisers must include a helpline number or a working web site address that has direct applicability and linkage to the advertiser
- If an IVR or SMS system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for contacting the advertiser or as a helpline access, then the fact that this access number is Premium Rated or uses VAS rates must be indicated next to the access number.

◦ Eg **"Helpline 08x-xxx-xxxx. VAS Rates. Free Minutes Do Not Apply.**

- Note the general rule in v3.2 of the WASPA Code Of Conduct that a Premium Rated SMS number used as a contact number for the advertiser, or as a helpline, or for unsubscribing from a service **may not exceed R1 in total.**

◦ **Eg : "SMS 'Help' to 31xxx. R1/SMS. Premium Rates. Free SMSs Do Not Apply."**

2.3.7 **CONTACT-TYPE SERVICES:** Indicate If Any restrictions apply to access or use // Indicate if multiple registration or other steps required before full use of advertised service is possible // Indicate Adult and/or Age-Restricted nature of the service if advertised as having sexual content or ordinarily unsuitable for access and use by children // Use AVS if service has Adult Content as defined and/or if Age-Restricted // Indicate source and unsubscribe facility if no contact for more than 10 days

- If a Contact-type service is advertised as containing sexual content or is advertised as having content that, ordinarily, would be unsuitable for children, then advertisements for that service must indicate that it is for use by Adults only.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- If a Contact-type service is advertised as containing sexual content, then an **Adult Verification System** must be used for registration of new users to that Contact-type service.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- Advertisements for any interactive chat, flirt, dating or similar Contact-type services (whether anonymous or not) must indicate whether any restrictions apply to its full use. Eg Time of day, age.
 - [See also "**AVAILABILITY OF CONTENT/SERVICES**" above]
 - [See also Definition of "**ADULT**" above]

- If a user must first successfully complete multiple steps requiring multiple communications to the service before they are able to fully access or use the service as advertised, then this must be specified in the advertisement.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

- If using SMS as the Access Channel for a Contact-type service, each request for a user to respond to a message sent to a user as part of that service must indicate the price of the reply

if the price at any stage of the communication, differs at all from the initial advertised service price.

- If using SMS as the Access Channel for a Contact-type service, and where there has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and no more than 120 seconds if using IVR or any other time-based method as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- If a Contact-type service using IVR as the Access Channel requires the user to first listen to a (recorded) audio before they can access the actual person, service or facility otherwise so indicated or suggested by the wording or design of the advertisement, and this waiting time **exceeds 60 seconds** from the start of the IVR call, then the minimum 'waiting' time must be also indicated.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below"]

2.3.8 **DISTRIBUTION LISTS**: Indicate If Consumer Automatically Placed On List. // No sexual or sexually suggestive Content in list if the list recipient does not request or expect it. // Provide reasonable opt-out procedure // Sender must have direct and recent association with recipient

- If by requesting any Content or accessing a service, the consumer so doing is automatically placed on a distribution list that will continuously or periodically send that consumer further related or unrelated communications from that Content provider or any other Content provider or advertiser, then the T&C text must explicitly specify in the T&C that updates will be sent until cancelled. *[Note that v3.2 of the Code of Conduct specifies that the sender must have a "Direct & Recent" association with the recipient].*

Best Practice Suggestion

Display text: "Updates sent until cancelled"

- 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.
- The sender to a distribution list must indicate the cost and T&C of access to a service in each and every communication, even the receiver was previously a user of that service. No assumption as to the knowledge of the recipient in respect of the costs and T&C of a service must be made for users who had previously used the service.
- If using SMS as the Access Channel and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, must indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and may not be more than 120 seconds if using IVR or any other voice-based system as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- **Opt-Out:** Any further communication with a consumer in a distribution list must contain a relatively easy and unambiguous method for immediately opting-out of any further communications from that distribution list:
 - **Fax:** No premium rated fax lines [eg 0866 fax-2-email type numbers] may be used for the mandatory opt-out procedure.
 - **SMS:** The total cost of opting-out from any distribution list using a premium rated SMSs Access Channel may not exceed R1 total cost
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]
 - [See also v3.2 of "**WASPA CODE OF CONDUCT**"]
 - **IVR (or any other time-based method):** Where applicable, any IVR systems used for any opt-out procedure must be designed so that a reasonable user will not need to exceed 120 seconds (from the start of the IVR call or time-based method) for the entire opt-out process.
 - [See also "**PRICING**" below]
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

2.3.9 **FAILED REQUESTS:** Indicate If Failed Requests Billed

- If for any reason the service bills for incorrect, failed, or unsuccessful requests, then the T&C text must display this (if applicable)

Best Practice Suggestion:

Display text: "Errors billed"

2.3.10 **LIVE SERVICES:** [In relation to live Contact-type services only] Advertisements may not use the word 'live' to describe systems where a recording or an automated system is used in place of a real-time interaction with a human

- No advertisement may be designed or worded in a manner that may create an expectation by a reasonable person that there is real-time or near-real time communication with a human offered as part of the service, where in fact there is no live real-time or near-real-time interaction whatsoever with a human available as part of that advertised service, or where the real time interaction with the human does not constitute the essence of the service

Eg Recordings that simulate "eavesdropping" on purported conversations between two or more persons do not constitute 'live services'.

- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.
 - [See "**AVAILABILITY OF CONTENT/SERVICES**" above]

2.3.11 **NETWORK COMPATIBILITY:** Indicate If Services Are Network-dependent // Indicate if subscription-type dependent

- There must be an clear indication in the advertisement detailing which mobile networks the user must have access to for fully access any Content and/or participate in the service offered
- If only contract-only or prepaid-only users have access to the service, this must be indicated

- 2.3.12 **PRICING:** Show component, bearer and total cost //
Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised

Overview:

The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.

Background:

Note that the term "Standard Rates Apply" as has in the past been used widely is, according to the definitions supplied by all three mobile networks, an **incorrect** description of IVR and PSMS, as a "**Standard Rate**" is only applicable to use of eg free bundled SMSs/Minutes. The original term was "VAS Standard Rates Apply" which was only applicable to IVR access, but which many over time **incorrectly** abbreviated to "Standard Rates" with purported applicability to for both IVR, PSMS, and Premium Rated USSD Access Channels.

Standard Rate: [see Also definition of Standard Rate in the Definition section]

A Standard Rate is a rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies. Thus, where free/bundled SMSs/Minutes cannot be utilized or where the tariff for an Access Channel differs from the in-bundle tariff for any user pursuant to the terms of conditions of the service agreement that user has with a mobile network operator, then term "**Standard Rate**" may not, from implementation of the Ad Rules, be used under those circumstances.

Instead, the following must be used:

For IVR Lines: "VAS Rates Apply. Free Minutes Do Not Apply"

Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".

Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) if the SMSs/Minutes are not available free or in a bundle.

(a) **Bearer Costs:**

If additional WAP/GPRS bearer charges may be incurred over and above any other Access Channel costs, the possibility thereof must be indicated.

eg "**2x R5 SMS = Total R10 + WAP Charges**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below]

(c) **IVR:**

- Any IVR system using a VAS rated Access Channel provided by or through a licensed mobile operator for access to any services or Content must be identified as such, along with a notice that free minutes will not apply.

- If the minimum amount of time the user is required to stay on the line to access the service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised service or Content must be indicated.
- The following is an example of component and total cost indications:

Examples:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reason:

- VAS rate nature of the phone number has not been disclosed
- Inability to use free minutes has not been disclosed
- Minimum amount of time to fully access service/Content has not been disclosed
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below for more detailed requirements]

(c) **USSD:**

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the potential for any additional costs associated with specific menu selections.
 - [See "**USSD ACCESS**" below]

(d) **SMS:**

- The cost of a single (or component) SMS used for access to a service must be indicated.
- If more than one SMS is required to access the service/Content, then the number of SMSs so required and their individual cost for access must be indicated. The total cost involved in accessing the full service based on the cumulative number of SMSs required must also be disclosed.

For example, if a number of SMSs are required for registration before full access and use of an advertised service becomes available to a user, then the possibility thereof and then the number of required SMSs must be indicated.

Eg "2x R5 SMS = Total R10 + WAP Charges"

Eg "3 x R5 SMSs required for service registration. Total cost R15"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below for detailed requirements]

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3a (where NOT part of a subscription service):

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3b (where part of a subscription service that eg has a minimum of 5 weeks subscription):

Correct: "Subscription Service. R5/week for 6 weeks. Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

2.3.13 **SUBSCRIPTION SERVICES:** Show Total Subscription Charge, Frequency of Charge, any bearer charges and any additional charge/s

(i) **Must Use The Words "Subscription Service"**

If the Content provider is providing a continuous, subscription-like or subscription-based service, then the words "Subscription Service" must be prominently displayed at the top section of the advertisement as well as at each Content or service section in the advertisement where various subscription types are displayed.

No acronym, letter (eg "S"), number, abbreviation (eg "Subs"), icon, or any other mark may be used as an alternative to the words "Subscription Service" anywhere in the advertisement when that Content is only available at all and/or at a particular cost as part of a subscription service.

(ii) **Must Indicate Charge/s:**

The advertisement must indicate in the font size, position and type as indicated:

- (a) The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- (b) The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- (c) Whether, in addition to the periodic subscription charges in (a) & (b) above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement. **[See (iii) below]**

This indication must include the potential and cost of any (additional) bearer charges.

(iii) **Must Indicate Cost Of Any (Additional) Per-Content Access**

If in addition to a periodic subscription charge the consumer could additionally be charged on a per-access basis for access to any particular service, Content or class of Content on the advertisement within the subscription period and terms, then the advertiser must make it clear to the consumer that access this Content or service will, over and above the periodic subscription cost, incur additional charges per Content or service access.

The periodic subscription cost, the frequency of the periodic charge, and where applicable, the additional access cost must all be displayed clearly and TOGETHER, in a position immediately above, below, or to the side of the Content, service, or class of Content. There must in particular be an indication whether bearer charges are included or not in the access cost.

- [See also '**BEARER CHARGES**' above)

(iv) **Must Differentiate Clearly Between Multiple Subscription Types**

If in any advertisement there may exist the possibility to subscribe to a number of individual subscription services which would ordinarily each carry a separate but additional subscription charge and associated charging frequency or additional per-Content access charge, then this possibility of the consumer being charged at multiple prices and charging frequency must be clearly indicated.

(v) **Must clearly Differentiate Between Non-subscription and subscription Types if both available in the same advertisement:**

Taking into account the provisions in section 11.1.2 in v3.2 of the WASPA Code Of Conduct on relating to an "**independent transaction**," if an advertisement has components to it that promote

(a) Content that is ordinarily made available to a consumer on payment of a once-off payment for that individual Content without the need to subscribe to that service,

AND

(b) Content that will be available at all, and/or at a particular price or even free only if the consumer subscribes to a subscription service,

then this distinction between the availability of non-subscription and subscription charging must be made clear by unambiguously demarcating in separate sections (and not just wording) the non-subscription portion from the subscription service portion or Content in the advertisement.

The words "Subscription Service" as well as the total charges and any additional access charges and charge frequency for that subscription service must be clearly indicated in the form specified.

ADDITIONAL BACKGROUND NOTES TO SUBSCRIPTION SERVICES:

Any request to be subscribed to a subscription service must be an **INDEPENDENT TRANSACTION** (see s11.1.2 of v3.2 of the WASPA Code of Conduct). Hence subscribers cannot be subscribed to a subscription service through having requested specific Content, or having being made to believe by a (practically) confusing ad design that they are requesting Content on a once-off (non-subscription) basis.

Confusion by consumers may arise in cases where a single advert may indicate the availability of Content to users (usually on a network that has not enabled subscription services) on a once-off basis, as well as on a subscription basis (to users on a network that has enabled subscription services), even though the subscription and non-subscription services may be on a different number range.

If confusing, this may create the scenario where the consumer lacks a specific intention of subscribing to a service (s11.1.2).

To avoid this scenario, advertisers must avoid advertising material designs where subscription service access can be confused with non-subscription services for the same or same type of Content in the same ad. Unless this distinction is made clear, the non-subscription portion of an ad which has as its center the requesting of specific Content (on a once-off basis to users on a network that does not have subscription services) may have the effect of (possibly inadvertently) **breaching** the 'independent transaction' criteria of the subscription portion of the code of conduct (See also s11.1.4 of v3.2 of the Code of Conduct)

2.3.14 **TECHNICAL CONDITIONS FOR ACCESS:** Indicate which users and/or phones can access services

- The display text must indicate whether the service can only be accessed by:
 - (f) Phones with any particular technical specification(s)
 - (g) Any particular time period [See also “**AVAILABILITY OF SERVICES/CONTENT**” above]
 - (h) Any particular bearers [See also “**BEARER CHARGES**” above]
 - (i) Any particular mobile operator networks [See also “**NETWORK COMPATIBILITY**” above]
 - (j) Any particular mobile operator subscription types [See “also **NETWORK COMPATIBILITY**” above]

However, because there are numerous phones on the market each with different technical specifications, it may be impractical to list all these handsets in media which is non-permanent (eg TV/Radio). These must however be shown in permanent media (eg Web/Print)

INDICATE IF SERVICE IS HANDSET-RESTRICTED

[Note: *Best efforts at handset compatibility if restricted to more than 30 handset models*]

- *Nokia Series60 handset required* **or**
- *Java Handset Required* **or**
- *Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS)* **or**
- *Only available for Compatible Handsets. For List, see xyz.co.za/handsets* **or**
- *Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).*

2.3.15 **TOTAL ACCESS REQUIREMENTS:** WAP/GPRS: Indicate if WAP/GPRS require // For SMSs:

Indicate Number Of SMSs required for full access to Content or for registration to allow full use of the advertised service. // For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper // Include possibility of bearer charges if applicable.

o [See also "**PRICING**" above]

- WAP/GPRS

Indicate if WAP and/or GPRS is required for full access to the Content/services.

- IVR:

If an IVR system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for access to any services or Content, and the minimum time a reasonable user would require for minimum access to the advertised service or Content **exceeds 60 seconds**, then the minimum amount of time required for this minimum access to the Content or service must be indicated.

For example, if a Contact-type service, Competition line, or similar service exceeds 60 seconds in total length (from the start of the call) by requiring the user to first listen to for example **2 minutes** (120 seconds) of recorded audio before they can access the actual person, service or facility otherwise so indicated by the wording or design of the advertisement, then this minimum 'waiting' time must be also indicated.

EXAMPLE:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply.
Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reasons:

- No Indication Of VAS Rate nature of 08x access number.
- No Indication that Free Minutes are not available for access to the service.
- (If over 60 seconds waiting time), No minimum call time to access service proper indicated.

- **SMS:**

If more than one SMS is required to access the service/Content (and if additional bearer charges may apply), then indicate:

- (e) The number of SMSs required **AND**
- (f) The individual component cost for access must be indicated **AND**
- (g) The total cost involved in accessing the full service. **AND**
- (h) Any additional bearer or Content/service charges must be indicated.

For example, if a number of SMSs are required for before full access and use of an advertised service becomes available to a user, then the possibility thereof and if so, the minimum number of required SMSs must be indicated in the T&C.

Eg "2x R5 SMS = Total R10 + WAP Charges. Premium Rates. No Free SMSs"

Eg "3 x R5 SMSs required for registration. Total cost R15. Premium Rates. Free SMSs Do Not Apply."

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3a (where NOT part of a subscription service):**

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3b (where part of a subscription service that has eg a minimum of 6 weeks subscription):**

Correct: "Subscription Service. R5/week for 6 weeks.

Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

2.3.16 **USSD ACCESS:** Show Initial USSD Access Charges and Minimum Access times (if over 90 seconds)

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

Best Practice Suggestion:

Display Text: "Initial access cost 20 cents/20 seconds. Minimum 120 seconds."

2.3.17 **VAS/PREMIUM RATES:** Indicate That Free Minutes/SMSs Do Not Apply

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

2.3.18 **VAT:** All prices must include VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

Best Practice Suggestion:

Display Text: "All prices include VAT."

2.4 INFORMATION REQUIRED FOR DISCLOSURE

2.4.1 Where Applicable, The Following Is Mandatory Information That Must Be Displayed In Any Advertisement In Any Media Where An Access Channel Is Advertised:

1. PROVIDE CLEAR INDICATION OF TOTAL COST

- R5/SMS. Premium rates. Free SMSs Do Not Apply.
- R20/game. Premium rates. Free SMSs Do Not Apply. WAP required.
- Two SMSs Required at R--- each. Premium rates. Free SMSs Do Not Apply.
- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply.

2. PROVIDE CLEAR INDICATION OF MINIMUM REQUIREMENTS TO FULLY ACCESS SERVICE/CONTENT

- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply. Minimum 3 minutes.
- Seven SMSs at R--- each for registration. Premium rates. Free SMSs Do Not Apply.

3. INDICATE IF SUBSCRIPTION SERVICE, AND NATURE THEREOF - INCLUDING PRICE AND (MINIMUM) FREQUENCY

- This is a subscription service. You will be automatically charged R--- every week until you unsubscribe.
- This is a subscription service. You will be charged R-- per week until you unsubscribe, plus R—per wallpaper. WAP required.”

4. INDICATE WEB SITE ADDRESS IF REFERRING TO ADDITIONAL T&CS VIA WEB

- Eg xyz.co.za/tc

5. INDICATE CUSTOMER CARE ACCESS NUMBER

- Helpline 0xx-xxx-xxxx for
- For Help, SMS to 3xxxx (R1/SMS)

6. IDENTIFICATION OF WHO IS PROVIDING THE ADVERTISED SERVICE

- NiceCompany (Pty) Ltd

7. INDICATE IF ANY ACCESS REQUIREMENTS

- WAP Required
- GPRS Required
- WAP/GPRS required

8. INDICATE IF SERVICE IS HANDSET-RESTRICTED [Note: Best efforts at handset compatibility if restricted to more than 30 handset models]

- Nokia Series60 handset required **or**
- Java Handset Required **or**
- Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS) **or**

- Only available for Compatible Handsets. For List, see xyz.co.za/handsets
or
- Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).

9. INDICATE IF FAILED REQUESTS OR ERRORS CHARGED

- Errors charged
- Failed Requests Billed

10.INDICATE NETWORK / ACCESS RESTRICTIONS (IF ANY)

- XYZ Network contract subscribers only

11.INDICATE IF ACCESS TO SERVICE AUTOMATICALLY PLACES USER ON A DISTRIBUTION LIST. INDICATE METHOD & COST OF UNSUBSCRIBING.

- We reserve right to contact you. Updates sent until cancelled. Send 'unsubscribe' to 3xxxx (R1)
- Updates sent until cancelled. Send 'stop' to 3xxxx (R1)

12.INDICATE CLOSING DATE AND T&Cs OF COMPETITIONS

- Competition closes 1 January 2006. Winners will be notified by SMS. You must be over 18 to enter

13.INDICATE IF ANY AVAILABILITY RESTRICTIONS

- Live chat unavailable 01h00-07h00

14.INDICATE THAT ALL PRICES INCLUDE VAT

- All Prices include VAT.

15.INDICATE IF ANY AGE RESTRICTIONS

- Adults only. You may be asked to verify your age.

16.Indicate that consent to use service must first be required by bill payer

- Obtain bill payers consent before using this service

3 RADIO

3.1 SCOPE

Applies to all radio advertisements where Access Channels are utilized.

3.2 VOICE-OVER REQUIREMENTS

3.2.1 Broad Overview

Announce Full Cost and T&C

If an Access Channel number is used as part of an interactive radio talk-show programme and/or is consistently used as part of that radio station's activities, then the cost of the Access Channel number and that (if applicable) it is premium rated must be announced by the announcer or station's promotional advertisement for that Access Number at least once every 5 minutes if used consistently as part of station programming.

A radio advertisement that contains an Access Number that is not the Access Number consistently used by that station as part of its interactive services must indicate both the total price and, if applicable, the inability to use free minutes/SMSs

Subscription Services

For any advertisement that has a subscription service component to it, the voice-over must announce that users will be subscribing to a subscription service. The voiceover must indicate in a clear and unambiguous manner:

- (a) the periodic subscription charge, AND
- (b) the charging frequency, AND
- (c) Any additional premium-rated or other charges that might be applicable to access particular content or services.

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.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

3.2.2 **CRITERIA & TIMINGS FOR VOICE-OVER/S ANNOUNCING COST AND T&C:**

- If an access number is used as part of an interactive radio talk-show programme and/or is consistently used as part of that Radio Stations activities, then the cost of the access number and that (if applicable) it is premium rated must be announced at least once every 5 minutes if used consistently as part of station programming.

Best Practice for Voiceover:

"SMS us now on 31xxx. SMS costs R1. Premium Rates Apply."

- For radio advertisements that do not use the access number continually used by a radio station as part of its interactive activities with listeners, a voice-over is required to announce the FULL cost to consumer for obtaining the service offered.

For example, if two or more SMS and/or PSMS are required in order to obtain full service, the voice-over must indicate the **TOTAL** cost involved in obtaining the full service.

- The voice-over announcing the total cost must be audible, and the mention of the cost must not be part of a sentence whose construction and pronunciation could in any way confuse the consumer as to the true cost. The sentence must directly indicate the cost associated with any Access Channel.
- All total costs must include VAT.

3.2.3 SUBSTANCE OF VOICE-OVER

3.2.3.1 When IVR Lines Are used

- If a VAS-rated IVR number is indicated, then the voice-over must indicate that free bundled minutes do not apply, and that VAS rates will apply.
- If the minimum amount of time the user is required to stay on the IVR line to access the advertised service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised service or Content must be indicated.

Best Practice Suggestion:

Voice-over Announces: "Call 08x-xxx-xxxx. Access at VAS rates. Free minutes do not apply. Minimum 3 minutes"

3.2.3.2 When a premium rated SMS/USSD access number is used

- If there is a PSMS and/or PUSSD and/or WAP component indicated, then the voice-over must announce the **full cost** of the access

Best Practice Suggestion#1:

Voice-over Announces:

"SMS us now on 31xxx. SMS costs R1. Premium Rates Apply."

Best Practice Suggestion #2:

If more than one SMS is required to access the service/Content, the voice-over must announce the number of SMSs required for access, followed by the total cost involved in accessing the full service.

Voice-over Announces:

"Two SMSs required. Total cost R6. Premium Rates Apply."

Best Practice Suggestion #3:

Voice-over Announces: "Access cost 20 cents per 20 seconds. Minimum 60 seconds required to fully access Content."

- 3.2.3.3 Any advertisement that has a subscription service component to it must indicate that users will be subscribing to a subscription service.

The voiceover must indicate in a clear and unambiguous manner:

- (a) the periodic subscription charge, AND
- (b) the charging frequency, AND
- (c) Any additional premium-rated or other charges that might be applicable to access particular Content or services.

No acronym, letter (eg "S"), number, abbreviation or any other term may be used as an alternative to the words 'subscription service'. be automatically subscribed to a subscription service.

- 3.2.3.4 If a prize or reward is offered, and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated.

- A closing date for the competition **MUST** be provided.

Best Practice Suggestion:

E.g. "Prizes will only be awarded after 1 Jan 200x"

3.2.3.5 **ADULT CONTENT OR AGE RESTRICTED SERVICES**

- If an advertisement refers to Adult Content or any Age Restricted services, then the voice-over must announce that the service is restricted to over 18's and that users may be required to verify their age.
- No Content Services that may directly or indirectly allow persons under 18 years of age to obtain Adult Content may be advertised on radio, unless an Adult verification process (implemented or approved by the mobile network operators) is in place to prevent access to that Content service by minors.
- Advertising material for Content Services may not contain audio that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996.

Note that it is entirely the responsibility of the Content provider to determine which laws apply to its service.

Best Practice Suggestion:

Voice-over Announces: "You must be over 18" ...or "Adults only"

4 **NEWSPAPER ADVERTISING**

4.1 **SCOPE**

This section applies to all print advertisements placed **in the body of and in the classified portions** of ALL newspapers in tabloid or broadsheet format where legally available to all members and ages of the general public where Access Channels are displayed.

This section includes, but is not limited to, any in-house newspapers of companies, clubs, associations, religious and cultural institutions etc etc

Note: The criteria applying to Content booklets, magazines, flyers, any type of loose promotional material that contain Access Channels that may or may not be inserted into newspapers as loose inserts, are individually discussed under separate headings in this document.

- **See Sections 5 for separate rules for magazines**
- **See Section 6 for separate rules for Content booklets.**
- **See Section 9 below for separate rules for Below-The-Line promotional material like flyers.**

4.2 **DISPLAY RULES FOR COST & T&C INFORMATION**

4.2.1 **BROAD OVERVIEW:**

TEXT SHOWING FULL COST AND T&C IS REQUIRED

- For each unique access number, the full cost of the access must be displayed **immediately** below, or above, or adjacent to the unique access number or content access code in a manner that is easily visible and readable. All access cost information must be placed horizontally.
- **SMS/MMS**: The display text must indicate the TOTAL cost involved in obtaining the full service, and if applicable, also the number and component cost of the SMSs required for full access, and the potential for additional bearer charges.
- **IVR**: If a VAS-rated IVR system is used for access to any services or content, and the minimum time a reasonable user would require for full access to the advertised service or content **exceeds 60 seconds**, then the time required before full access to the advertised service or content is available must be indicated.
- **USSD**: If a USSD system is used for access to any services or content, and the minimum time a reasonable user would require for full access to the advertised service or content **exceeds 60 seconds**, then the time required before full access to the advertised service or content is available must be indicated.
- The pricing and T&C text must not be placed within the ad or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad
- The cost and T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C. All T&C information must be placed horizontally.
- **Text Size For Non-Classified Ads:**
 - Access cost text must be in **11 point font size**, using a non-serif font. [This is 11 point Arial Font]
 - **T&C** text must be in **9 point font size** using a non-serif font [This is 9 point Arial Font]
- **Text Size for Classified Ads:**
 - Access cost text must be in **9 point font size**, using a non-serif font. [This is 9 point Arial Font]
 - T&C text must be in **8 point font size** using a non-serif font [This is 8 point Arial Font]

SUBSCRIPTION SERVICES

Any advertisement that has a subscription service component must include:

- a) the periodic subscription charge, AND
- b) the charging frequency, AND
- c) Any additional premium-rated charges or other charges that might be applicable to access particular content or services.

ADULT CONTENT & AGE-RESTRICTED SERVICES

No Content services that may directly or indirectly allow persons under 18 years of age to obtain Adult Content or access Age-Restricted Services may be advertised in newspapers or publications of general distribution, **unless** (a) an adult verification process (implemented or approved by the mobile network operators) is in place to prevent access to that content service by minors **AND** (b) the content referred to in the advertisement is in keeping with the general nature, tone and theme of that particular media.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or /viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

4.2.2 **COST OF ACCESS DISPLAY RULES:**

4.2.2.1 **Formatting Of Access Cost Text:**

- **Non-Classified Advertisements**

- The size of the text showing the cost of access must be in **11 point font size**

This is 11 point Arial Font

- The access cost text must be in a non-serif font, preferably 'Arial' font.
- All access cost information must be placed horizontally.

- **Classified Advertisements:**

This applies to Classified Advertisements - ie advertisements with unique Content access code/numbers displayed in the classified portion of the body of a newspaper, or which are in classified-type format within the newspaper.

- The size of the text showing the cost of access must be in **9 point font size**

This is 9 point Arial Font

- The access cost text must be in a non-serif font, preferably 'Arial' font.
- All access cost information must be placed horizontally.

4.2.2.2 **Position Of Cost Text:**

- For each unique access number, the full and final cost of the access must be displayed immediately below, or above, or adjacent to the unique access number or Content access code in a non-serif font, **even** if there is a uniform cost of access displayed throughout the newspaper and/or a series of pages allocated to one advertiser.
- If multiple offers are made in an advertisement (spread across one or more pages) and the cost differs with each offering, **each** offering must clearly show the individual costs, again immediately below, or above, or adjacent to the unique access number in a non-serif font

4.2.3 **T&C DISPLAY RULES:**

4.2.3.1 **Formatting Of T&C Text**

- **Non-Classified Advertisements**

- The size of the text showing the T&C must be in **9 point font size**

This is 9 point Arial Font

- The T&C cost text must be in a non-serif font, preferably 'Arial' font.
- All T&C information must be placed horizontally.

- **Classified Advertisements:**

This applies to Classified Advertisements - ie advertisements with unique Content access code/numbers displayed in the classified portion of the body of a newspaper, or which are in classified-type format within the newspaper.

- The size of the text showing the T&C must be in **8 point font size**

This is 8 point Arial Font

- The access cost text must be in a non-serif font, preferably 'Arial' font
- All T&C information must be placed horizontally..

4.2.3.2 **Position T&C Of Text**

- The T&C text must be displayed on the same page as the unique access number it applies to, even if there is a uniform T&C applicable to all Content in a newspaper or applicable to all the Content in advertisement spread across one or more pages. Where the advertisement is a double-page only advertisement (with the entire advertisement contained on two facing pages), then it is sufficient that the T&C be placed on only one of the facing pages, provided the T&C is generally applicable to all the Content and Access numbers on both facing pages. If there is any deviation in the general applicability of the T&C, the exact T&C relating to that deviation must be placed at the point where different T&C would apply. (The same font sizes and layout must be used)
- If multiple offers are made on the same advertisement and the cost and T&C differ with each offering, each offering must show the cost & T&C separately and clearly.

This is 5 point times new roman font
This is 6 point times new roman font
This is 7 point times new roman font
This is 8 point times new roman font THIS IS 8 POINT TIMES NEW ROMAN FONT IN CAPS. TIMES ROMAN IS A SERIF FONT
This is 9 point times new roman font
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Illustrative Pricing Example:

Correct

Content-Header	34xxx R5/SMS + WAP Charges
Content Content Content Content Content Content	
T&C - T&C - T&C - T&C - T&C - T&C	

Incorrect

Content-Header	34xxx
Content Content Content Content Content Content	
R5/SMS + WAP Charges T&C - T&C - T&C - T&C	

4.3 GENERAL TERMS

4.3.1 **ADULT SERVICES [See also Age-Restricted Services]**: If the ads used to advertise any Adult Content *themselves* contain Adult Content, these ads are restricted to Adult Media // Ads referring to any Adult Content are restricted under certain conditions // An age verification system must be used for access to any Adult Content. // A warning that users must be 18 years or older to use a service must be shown

- **Advertisements Containing Adult Content (Images/Words/Sounds):**

In respect of the format and design of advertisements which are used to advertise Adult Content Services, if the advertisements *themselves* contain visual images and/or words or phrases that constitute or depict sexual conduct as is defined in the Films and Publications Act 65 of 1996, then these advertisements may only be advertised in Adult media. This restriction applies even if 'stars,' black strips or other attempts at direct visual blocking or disguising of any sexual conduct or explicit nudity are used in an advertisement.

- **Advertisements With References To Adult Content:**

In respect of an advertisement that contains references to Content Services, where that Content constitutes or depicts sexual conduct as defined in the Films and Publications Act 65, **but** where the advertisement itself for that Content does not constitute or depict sexual conduct as defined in the Films and Publications Act 65, then advertisements that so contain references to the (explicit) Content *may* be placed in any media, provided that:

- (a) An Adult Verification System is in place for access to that Content or service, **AND THAT**
- (b) The format, placement and design of the advertisement so referring to the (explicit) Content
 - is in keeping with the general nature, tone and theme of that particular media and is not calculated to offend the audience having access to that media, **AND**
 - abides by any advertising rules set by the owner or controller of that particular media, **AND**
 - conforms to any rulings issued by the ASASA in respect of that particular type of advertisement and media, **AND**
 - conforms to any similar rulings by the WASPA Adjudicator or WASPA Appeals Panel in respect of that particular type of advertisement and media, **AND WHICH**

- conforms to any particular rules set by any mobile operator in respect of use of that Access Channel

- **WATERSHED HOURS:**

For broadcast media (eg TV/Radio) where a policy of watershed hours is implemented, advertisements containing sexually explicit words, images, or sounds:

- (a) may only be broadcast during the watershed hours so defined by a licensed broadcaster,

AND

- (b) may not contain any sexual Content or nudity in excess of that displayed within the programme the advertisement is placed in. For example, if no nudity is displayed within the programme, then no nudity (whether depicted through animation or otherwise) is allowed in the advertisement.

IMPORTANT NOTE:

It is entirely the responsibility of those placing an advertisement to determine which laws apply to its service as well as the extent or not of the Adult nature of the programme advertised in.

Advertisers must thus contact the relevant broadcaster to determine the classification/rating of any programme before placing their advertisements.

- Any advertisement that has reference to Content or services that are legally restricted to use only by Adults must indicate that it is for Adults only and/or that verification of the user's age may be required.

This indication must be placed both in the T&C and in the body of advertisement where the service or Content is advertised.

- No abbreviations to indicate the Adult restriction are allowed (eg '18' or '18+' may not be used).

Rather, text indicating the Adult restriction should use the following terminology:

“Adults Only. Verification of your age may be required.” or

“You must be over 18 to view images or hear sounds. Verification of your age may be required.” or

“You must be over 18 to enter this competition. Verification of your age may be required.”

4.3.2 **Age-Restricted Services** Indicate If Age-Restricted

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services - or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.

Examples of Age-Restricted Services (non-exhaustive list):

- Gambling Services
 - Contact-type services where Children may potentially come into contact with Adults masquerading as Children
 - Adult Content
 - Dating Services
 - Content that does not necessarily fit the definition of Adult Content, but which may contain images, audio or text that is obscene or otherwise unsuitable for access and consumption by Children
 - Competitions with Age Restrictions
- No abbreviations to indicate the Age Restriction are allowed (eg '18' or '18+' only may not be used).

Rather, text indicating the Age Restriction should use the following terminology:

“Adults Only. Verification of your age may be required.” or

“You must be over 18 to view images or hear sounds. Verification of your age may be required.” or

“You must be over 18 to enter this competition. Verification of your age may be required.”

4.3.3 **AVAILABILITY OF CONTENT/SERVICES:** Indicate any restrictions

If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Example: "Live chat not available between 01h00 and 07h00"

4.3.4 **BEARER REQUIREMENTS & CHARGES:** Indicate need for and possibility of additional bearer charges eg WAP

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text in both the body of the advertisement as well as in the T&C must indicate that additional bearer charges may apply.

eg "**R10/Game + WAP charges**"

- [See also '**PRICING**' below]
- [See also '**TOTAL ACCESS REQUIREMENTS**' below]

4.3.5 **COMPETITIONS:** Indicate If Prize Award is Conditional // Must have and show a closing date If Conditional

(Note: This section is not meant to be an exhaustive overview of any possible permutation of competition types. The general guiding principles remain however)

- Promotional material must clearly state any information which is likely to affect a decision to participate, including:
 - the closing date;
 - any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
 - any significant age, geographic, or other eligibility restrictions;
 - any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.
 - any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize

- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.
- Adverts for Competitions must show a specific closing date, except where there are instant prize-winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.
- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text
- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.
- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.
- All correct entries must have the same chance of winning.

Best Practice Suggestion For Instant Notification Of Prize Winners With no minimum requirements entry conditions:

Display text: E.g. "Prizes will only be awarded after 1 Jan 200x"

Display text: E.g. "Competition closes after 1,000 entries received".

Display text: E.g. "Every 50th SMS received wins a prize. Prizes awarded after 1 December 2006."

Best Practice Suggestion For Instant Prize Competitions With Minimum Entry Requirements:

Display text: E.g. "Competition begins after 1,000 entries received. Closes 1 January 2007".

Display text: E.g. "Competition begins after 1,000 entries received. Every 50th SMS received thereafter wins a prize. Prizes awarded after 1 December 2006."

- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.
- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

4.3.6 **CONTACT DETAILS:** Provide web site address AND helpline number/shortcode // Contact details must be displayed as part of the T&C details.

- Advertisers must include a helpline number or a working web site address that has direct applicability and linkage to the advertiser
- If an IVR or SMS system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for contacting the advertiser or as a helpline access, then the fact that this access number is Premium Rated or uses VAS rates must be indicated next to the access number.

- Eg **"Helpline 08x-xxx-xxxx. VAS Rates. Free Minutes Do Not Apply.**

- Note the general rule in v3.2 of the WASPA Code Of Conduct that a Premium Rated SMS number used as a contact number for the advertiser, or as a helpline, or for unsubscribing from a service **may not exceed R1 in total.**

- **Eg : "SMS 'Help' to 31xxx. R1/SMS. Premium Rates. Free SMSs Do Not Apply."**

- 4.3.7 **CONTACT-TYPE SERVICES:** Indicate If Any restrictions apply to access or use // Indicate if multiple registration or other steps required before full use of advertised service is possible // Indicate Adult and/or Age-Restricted nature of the service if advertised as having sexual content or ordinarily unsuitable for access and use by children // Use AVS if service has Adult Content as defined and/or if Age-Restricted // Indicate source and unsubscribe facility if no contact for more than 10 days
- If a Contact-type service is advertised as containing sexual content or is advertised as having content that, ordinarily, would be unsuitable for children, then advertisements for that service must indicate that it is for use by Adults only.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]
 - If a Contact-type service is advertised as containing sexual content, then an **Adult Verification System** must be used for registration of new users to that Contact-type service.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]
 - Advertisements for any interactive chat, flirt, dating or similar Contact-type services (whether anonymous or not) must indicate whether any restrictions apply to its full use. Eg Time of day, age.
 - [See also "**AVAILABILITY OF CONTENT/SERVICES**" above]
 - [See also Definition of "**ADULT**" above]
 - If a user must first successfully complete multiple steps requiring multiple communications to the service before they are able to fully access or use the service as advertised, then this must be specified in the advertisement.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]
 - If using SMS as the Access Channel for a Contact-type service, each request for a user to respond to a message sent to a user as part of that service must indicate the price of the reply

if the price at any stage of the communication, differs at all from the initial advertised service price.

- If using SMS as the Access Channel for a Contact-type service, and where there has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and no more than 120 seconds if using IVR or any other time-based method as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- If a Contact-type service using IVR as the Access Channel requires the user to first listen to a (recorded) audio before they can access the actual person, service or facility otherwise so indicated or suggested by the wording or design of the advertisement, and this waiting time **exceeds 60 seconds** from the start of the IVR call, then the minimum 'waiting' time must be also indicated.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below"]

4.3.8 **DISTRIBUTION LISTS**: Indicate If Consumer Automatically Placed On List. // No sexual or sexually suggestive Content in list if the list recipient does not request or expect it. // Provide reasonable opt-out procedure // Sender must have direct and recent association with recipient

- If by requesting any Content or accessing a service, the consumer so doing is automatically placed on a distribution list that will continuously or periodically send that consumer further related or unrelated communications from that Content provider or any other Content provider or advertiser, then the T&C text must explicitly specify in the T&C that updates will be sent until cancelled. *[Note that v3.2 of the Code of Conduct specifies that the sender must have a "Direct & Recent" association with the recipient].*

Best Practice Suggestion

Display text: "Updates sent until cancelled"

- 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.
- The sender to a distribution list must indicate the cost and T&C of access to a service in each and every communication, even the receiver was previously a user of that service. No assumption as to the knowledge of the recipient in respect of the costs and T&C of a service must be made for users who had previously used the service.
- If using SMS as the Access Channel and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, must indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and may not be more than 120 seconds if using IVR or any other voice-based system as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- **Opt-Out:** Any further communication with a consumer in a distribution list must contain a relatively easy and unambiguous method for immediately opting-out of any further communications from that distribution list:
 - **Fax:** No premium rated fax lines [eg 0866 fax-2-email type numbers] may be used for the mandatory opt-out procedure.
 - **SMS:** The total cost of opting-out from any distribution list using a premium rated SMSs Access Channel may not exceed R1 total cost
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]
 - [See also v3.2 of "**WASPA CODE OF CONDUCT**"]
 - **IVR (or any other time-based method):** Where applicable, any IVR systems used for any opt-out procedure must be designed so that a reasonable user will not need to exceed 120 seconds (from the start of the IVR call or time-based method) for the entire opt-out process.
 - [See also "**PRICING**" below]
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

4.3.9 **FAILED REQUESTS:** Indicate If Failed Requests Billed

- If for any reason the service bills for incorrect, failed, or unsuccessful requests, then the T&C text must display this (if applicable)

Best Practice Suggestion:

Display text: "Errors billed"

4.3.10 **LIVE SERVICES:** [In relation to live Contact-type services only] Advertisements may not use the word 'live' to describe systems where a recording or an automated system is used in place of a real-time interaction with a human

- No advertisement may be designed or worded in a manner that may create an expectation by a reasonable person that there is real-time or near-real time communication with a human offered as part of the service, where in fact there is no live real-time or near-real-time interaction whatsoever with a human available as part of that advertised service, or where the real time interaction with the human does not constitute the essence of the service

Eg Recordings that simulate "eavesdropping" on purported conversations between two or more persons do not constitute 'live services'.

- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.
 - [See "**AVAILABILITY OF CONTENT/SERVICES**" above]

4.3.11 **NETWORK COMPATIBILITY:** Indicate If Services Are Network-dependent // Indicate if subscription-type dependent

- There must be an clear indication in the advertisement detailing which mobile networks the user must have access to for fully access any Content and/or participate in the service offered
- If only contract-only or prepaid-only users have access to the service, this must be indicated

- 4.3.12 **PRICING:** Show component, bearer and total cost //
Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised

Overview:

The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.

Background:

Note that the term "Standard Rates Apply" as has in the past been used widely is, according to the definitions supplied by all three mobile networks, an **incorrect** description of IVR and PSMS, as a "**Standard Rate**" is only applicable to use of eg free bundled SMSs/Minutes. The original term was "VAS Standard Rates Apply" which was only applicable to IVR access, but which many over time **incorrectly** abbreviated to "Standard Rates" with purported applicability to for both IVR, PSMS, and Premium Rated USSD Access Channels.

Standard Rate: [see Also definition of Standard Rate in the Definition section]

A Standard Rate is a rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies. Thus, where free/bundled SMSs/Minutes cannot be utilized or where the tariff for an Access Channel differs from the in-bundle tariff for any user pursuant to the terms of conditions of the service agreement that user has with a mobile network operator, then term "**Standard Rate**" may not, from implementation of the Ad Rules, be used under those circumstances.

Instead, the following must be used:

For IVR Lines: "VAS Rates Apply. Free Minutes Do Not Apply"

Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".

Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) if the SMSs/Minutes are not available free or in a bundle.

(a) **Bearer Costs:**

If additional WAP/GPRS bearer charges may be incurred over and above any other Access Channel costs, the possibility thereof must be indicated.

eg "**2x R5 SMS = Total R10 + WAP Charges**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below]

(d) **IVR:**

- Any IVR system using a VAS rated Access Channel provided by or through a licensed mobile operator for access to any services or Content must be identified as such, along with a notice that free minutes will not apply.

- If the minimum amount of time the user is required to stay on the line to access the service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised service or Content must be indicated.
- The following is an example of component and total cost indications:

Examples:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reason:

- VAS rate nature of the phone number has not been disclosed
- Inability to use free minutes has not been disclosed
- Minimum amount of time to fully access service/Content has not been disclosed
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below for more detailed requirements]

(c) **USSD:**

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the potential for any additional costs associated with specific menu selections.
 - [See "**USSD ACCESS**" below]

(d) **SMS:**

- The cost of a single (or component) SMS used for access to a service must be indicated.
- If more than one SMS is required to access the service/Content, then the number of SMSs so required and their individual cost for access must be indicated. The total cost involved in accessing the full service based on the cumulative number of SMSs required must also be disclosed.

For example, if a number of SMSs are required for registration before full access and use of an advertised service becomes available to a user, then the possibility thereof and then the number of required SMSs must be indicated.

Eg "2x R5 SMS = Total R10 + WAP Charges"

Eg "3 x R5 SMSs required for service registration. Total cost R15"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below for detailed requirements]

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3a (where NOT part of a subscription service):

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3b (where part of a subscription service that eg has a minimum of 5 weeks subscription):

Correct: "Subscription Service. R5/week for 6 weeks. Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

4.3.13 **SUBSCRIPTION SERVICES:** Show Total Subscription Charge, Frequency of Charge, any bearer charges and any additional charge/s

(i) **Must Use The Words "Subscription Service"**

If the Content provider is providing a continuous, subscription-like or subscription-based service, then the words "Subscription Service" must be prominently displayed at the top section of the advertisement as well as at each Content or service section in the advertisement where various subscription types are displayed.

No acronym, letter (eg "S"), number, abbreviation (eg "Subs"), icon, or any other mark may be used as an alternative to the words "Subscription Service" anywhere in the advertisement when that Content is only available at all and/or at a particular cost as part of a subscription service.

(ii) **Must Indicate Charge/s:**

The advertisement must indicate in the font size, position and type as indicated:

- (a) The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- (b) The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- (c) Whether, in addition to the periodic subscription charges in (a) & (b) above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement. **[See (iii) below]**

This indication must include the potential and cost of any (additional) bearer charges.

(iii) **Must Indicate Cost Of Any (Additional) Per-Content Access**

If in addition to a periodic subscription charge the consumer could additionally be charged on a per-access basis for access to any particular service, Content or class of Content on the advertisement within the subscription period and terms, then the advertiser must make it clear to the consumer that access this Content or service will, over and above the periodic subscription cost, incur additional charges per Content or service access.

The periodic subscription cost, the frequency of the periodic charge, and where applicable, the additional access cost must all be displayed clearly and TOGETHER, in a position immediately above, below, or to the side of the Content, service, or class of Content. There must in particular be an indication whether bearer charges are included or not in the access cost.

- [See also '**BEARER CHARGES**' above)

(iv) **Must Differentiate Clearly Between Multiple Subscription Types**

If in any advertisement there may exist the possibility to subscribe to a number of individual subscription services which would ordinarily each carry a separate but additional subscription charge and associated charging frequency or additional per-Content access charge, then this possibility of the consumer being charged at multiple prices and charging frequency must be clearly indicated.

(v) **Must clearly Differentiate Between Non-subscription and subscription Types if both available in the same advertisement:**

Taking into account the provisions in section 11.1.2 in v3.2 of the WASPA Code Of Conduct on relating to an "**independent transaction**," if an advertisement has components to it that promote

(a) Content that is ordinarily made available to a consumer on payment of a once-off payment for that individual Content without the need to subscribe to that service,

AND

(b) Content that will be available at all, and/or at a particular price or even free only if the consumer subscribes to a subscription service,

then this distinction between the availability of non-subscription and subscription charging must be made clear by unambiguously demarcating in separate sections (and not just wording) the non-subscription portion from the subscription service portion or Content in the advertisement.

The words "Subscription Service" as well as the total charges and any additional access charges and charge frequency for that subscription service must be clearly indicated in the form specified.

ADDITIONAL BACKGROUND NOTES TO SUBSCRIPTION SERVICES:

Any request to be subscribed to a subscription service must be an **INDEPENDENT TRANSACTION** (see s11.1.2 of v3.2 of the WASPA Code of Conduct). Hence subscribers cannot be subscribed to a subscription service through having requested specific Content, or having being made to believe by a (practically) confusing ad design that they are requesting Content on a once-off (non-subscription) basis.

Confusion by consumers may arise in cases where a single advert may indicate the availability of Content to users (usually on a network that has not enabled subscription services) on a once-off basis, as well as on a subscription basis (to users on a network that has enabled subscription services), even though the subscription and non-subscription services may be on a different number range.

If confusing, this may create the scenario where the consumer lacks a specific intention of subscribing to a service (s11.1.2).

To avoid this scenario, advertisers must avoid advertising material designs where subscription service access can be confused with non-subscription services for the same or same type of Content in the same ad. Unless this distinction is made clear, the non-subscription portion of an ad which has as its center the requesting of specific Content (on a once-off basis to users on a network that does not have subscription services) may have the effect of (possibly inadvertently) **breaching** the 'independent transaction' criteria of the subscription portion of the code of conduct (See also s11.1.4 of v3.2 of the Code of Conduct)

4.3.14 **TECHNICAL CONDITIONS FOR ACCESS:** Indicate which users and/or phones can access services

- The display text must indicate whether the service can only be accessed by:

- (k) Phones with any particular technical specification(s)
- (l) Any particular time period [See also "**AVAILABILITY OF SERVICES/CONTENT**" above]
- (m) Any particular bearers [See also "**BEARER CHARGES**" above]
- (n) Any particular mobile operator networks [See also "**NETWORK COMPATIBILITY**" above]
- (o) Any particular mobile operator subscription types [See "also **NETWORK COMPATIBILITY**" above]

However, because there are numerous phones on the market each with different technical specifications, it may be impractical to list all these handsets in media which is non-permanent (eg TV/Radio). These must however be shown in permanent media (eg Web/Print)

INDICATE IF SERVICE IS HANDSET-RESTRICTED

[Note: *Best efforts at handset compatibility if restricted to more than 30 handset models*]

- *Nokia Series60 handset required* **or**
- *Java Handset Required* **or**
- *Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS)* **or**
- *Only available for Compatible Handsets. For List, see xyz.co.za/handsets* **or**
- *Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).*

4.3.15 **TOTAL ACCESS REQUIREMENTS:** WAP/GPRS: Indicate if WAP/GPRS require // For SMSs:

Indicate Number Of SMSs required for full access to Content or for registration to allow full use of the advertised service. // For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper // Include possibility of bearer charges if applicable.

o [See also "**PRICING**" above]

• WAP/GPRS

Indicate if WAP and/or GPRS is required for full access to the Content/services.

• IVR:

If an IVR system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for access to any services or Content, and the minimum time a reasonable user would require for minimum access to the advertised service or Content **exceeds 60 seconds**, then the minimum amount of time required for this minimum access to the Content or service must be indicated.

For example, if a Contact-type service, Competition line, or similar service exceeds 60 seconds in total length (from the start of the call) by requiring the user to first listen to for example **2 minutes** (120 seconds) of recorded audio before they can access the actual person, service or facility otherwise so indicated by the wording or design of the advertisement, then this minimum 'waiting' time must be also indicated.

EXAMPLE:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply.
Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reasons:

- No Indication Of VAS Rate nature of 08x access number.
- No Indication that Free Minutes are not available for access to the service.
- (If over 60 seconds waiting time), No minimum call time to access service proper indicated.

- **SMS:**

If more than one SMS is required to access the service/Content (and if additional bearer charges may apply), then indicate:

- (i) The number of SMSs required **AND**
- (j) The individual component cost for access must be indicated **AND**
- (k) The total cost involved in accessing the full service. **AND**
- (l) Any additional bearer or Content/service charges must be indicated.

For example, if a number of SMSs are required for before full access and use of an advertised service becomes available to a user, then the possibility thereof and if so, the minimum number of required SMSs must be indicated in the T&C.

Eg "2x R5 SMS = Total R10 + WAP Charges. Premium Rates. No Free SMSs"

Eg "3 x R5 SMSs required for registration. Total cost R15. Premium Rates. Free SMSs Do Not Apply."

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3a (where NOT part of a subscription service):**

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3b (where part of a subscription service that has eg a minimum of 6 weeks subscription):**

Correct: "Subscription Service. R5/week for 6 weeks.

Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

4.3.16 **USSD ACCESS:** Show Initial USSD Access Charges and Minimum Access times (if over 90 seconds)

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

Best Practice Suggestion:

Display Text: "Initial access cost 20 cents/20 seconds. Minimum 120 seconds."

4.3.17 **VAS/PREMIUM RATES:** Indicate That Free Minutes/SMSs Do Not Apply

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

4.3.18 **VAT:** All prices must include VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

Best Practice Suggestion:

Display Text: "All prices include VAT."

4.4 INFORMATION REQUIRED FOR DISCLOSURE

4.4.1 Where Applicable, The Following Is Mandatory Information That Must Be Displayed In Any Advertisement In Any Media Where An Access Channel Is Advertised:

1. PROVIDE CLEAR INDICATION OF TOTAL COST

- R5/SMS. Premium rates. Free SMSs Do Not Apply.
- R20/game. Premium rates. Free SMSs Do Not Apply. WAP required.
- Two SMSs Required at R--- each. Premium rates. Free SMSs Do Not Apply.
- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply.

2. PROVIDE CLEAR INDICATION OF MINIMUM REQUIREMENTS TO FULLY ACCESS SERVICE/CONTENT

- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply. Minimum 3 minutes.
 - Seven SMSs at R--- each for registration. Premium rates. Free SMSs Do Not Apply.

3. INDICATE IF SUBSCRIPTION SERVICE, AND NATURE THEREOF - INCLUDING PRICE AND (MINIMUM) FREQUENCY

- This is a subscription service. You will be automatically charged R--- every week until you unsubscribe.
- This is a subscription service. You will be charged R-- per week until you unsubscribe, plus R—per wallpaper. WAP required.”

4. INDICATE WEB SITE ADDRESS IF REFERRING TO ADDITIONAL T&CS VIA WEB

- Eg xyz.co.za/tc

5. INDICATE CUSTOMER CARE ACCESS NUMBER

- Helpline 0xx-xxx-xxxx for
- For Help, SMS to 3xxxx (R1/SMS)

6. IDENTIFICATION OF WHO IS PROVIDING THE ADVERTISED SERVICE

- NiceCompany (Pty) Ltd

7. INDICATE IF ANY ACCESS REQUIREMENTS

- WAP Required
- GPRS Required
- WAP/GPRS required

8. INDICATE IF SERVICE IS HANDSET-RESTRICTED [Note: Best efforts at handset compatibility if restricted to more than 30 handset models]

- Nokia Series60 handset required **or**
- Java Handset Required **or**
- Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS) **or**

- *Only available for Compatible Handsets. For List, see xyz.co.za/handsets **or***
- *Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).*

9. INDICATE IF FAILED REQUESTS OR ERRORS CHARGED

- *Errors charged*
- *Failed Requests Billed*

10.INDICATE NETWORK / ACCESS RESTRICTIONS (IF ANY)

- *XYZ Network contract subscribers only*

11.INDICATE IF ACCESS TO SERVICE AUTOMATICALLY PLACES USER ON A DISTRIBUTION LIST. INDICATE METHOD & COST OF UNSUBSCRIBING.

- *We reserve right to contact you. Updates sent until cancelled. Send 'unsubscribe' to 3xxxx (R1)*
- *Updates sent until cancelled. Send 'stop' to 3xxxx (R1)*

12.INDICATE CLOSING DATE AND T&Cs OF COMPETITIONS

- *Competition closes 1 January 2006. Winners will be notified by SMS. You must be over 18 to enter*

13.INDICATE IF ANY AVAILABILITY RESTRICTIONS

- *Live chat unavailable 01h00-07h00*

14.INDICATE THAT ALL PRICES INCLUDE VAT

- *All Prices include VAT.*

15.INDICATE IF ANY AGE RESTRICTIONS

- *Adults only. You may be asked to verify your age.*

16.Indicate that consent to use service must first be required by bill payer

- *Obtain bill payers consent before using this service*

5 **Magazines**

5.1 **SCOPE**

Applies to all print advertisements placed **in the body of and classified portions** of published magazines where Access Channels are displayed.

Examples of magazines:

Mr. Delivery Food Guide, You, Huisgenoot, Bono, MensHealth, Y!, GQ, DSTV Magazine, Hustler, any in-house magazines, magazines aimed at any social, religious, school; university, technikon, college, etc

The above list is not an exclusive list of magazines. The names are purely illustrative.

Note: The criteria applying to Content booklets, magazines, flyers, any type of loose promotional material that contain Access Channels that could also be inserted into magazine as loose inserts, are individually discussed under separate headings in this document.

- **See Sections 6 for rules for Content booklets.**
- **See Section 9 below for separate rules for Below-The-Line promotional material like flyers.**
- **This section 5 also applies also to magazines that may be inserted into other magazines or newspapers as a loose inserts.**

Applies to all advertisements that make up the entire page or a portion of a page in the body of a magazine **e.g.** Full page, half page, quarter page advertisements in the body of a magazine, over one or more pages.

5.2 **COST & T&C INFORMATION DISPLAY RULES**

5.2.1 **BROAD OVERVIEW:**

TEXT SHOWING FULL COST AND T&C IS REQUIRED

- For each unique access number, the full cost of the access must be displayed **immediately** below, or above, or adjacent to the unique access number or content access code in a manner that is easily visible and readable.
- **SMS/MMS**: The display text must indicate the TOTAL cost involved in obtaining the full service, and if applicable, also the number and component cost of the SMSs required for full access, and the potential for additional bearer charges.
- **IVR**: If a VAS-rated IVR system is used for access to any services or content, and the minimum time a reasonable user would require for full access to the advertised service or content **exceeds 60 seconds**, then the time required before full access to the advertised service or content is available must be indicated.
- **USSD**: If an USSD system is used for access to any services or content, and the minimum time a reasonable user would require for full access to the advertised service or content **exceeds 60 seconds**, then the time required before full access to the advertised service or content is available must be indicated.
- The pricing and T&C text must not be placed within the ad or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad. All access cost and T&C information must be placed horizontally.
- The cost and T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C
- Text Size For Non-Classified Ads:
 - Access cost text must be in **11 point font size**, using a non-serif font. [This is 11 point Arial Font]
 - **T&C** text must be in **9 point font size** using a non-serif font [This is 9 point Arial Font]
- Text Size for Classified Ads:
 - Access cost text must be in **9 point font size**, using a non-serif font. [This is 9 point Arial Font]
 - T&C text must be in **8 point font size** using a non-serif font [This is 8 point Arial Font]

SUBSCRIPTION SERVICES

Any advertisement that has a subscription service component must include:

- a) the periodic subscription charge, AND
- b) the charging frequency, AND
- c) Any additional premium-rated or other charges that might be applicable to access particular content or services.

ADULT CONTENT & AGE-RESTRICTED SERVICES

No content services that may directly or indirectly allow persons under 18 years of age to obtain Adult content or Age-Restricted services may be advertised in newspapers or publications of general distribution, **unless** (a) an adult verification process (implemented or approved by the mobile network operators) is in place to prevent access to that content service by minors **AND** (b) the content referred to in the advertisement is in keeping with the general nature, tone and theme of that particular media.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or /viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

5.2.2 COST OF ACCESS DISPLAY RULES

5.2.2.1 **Formatting Of Cost Text:**

- **Non-Classified Advertisements**

- The size of the text showing the cost of access must be in **11 point font size**

This is 11 point Arial Font

- The access cost text must be in a non-serif font, preferably 'Arial' font.
- All access cost information must be placed horizontally.

- **Classified Advertisements:**

This applies to Classified Advertisements - ie advertisements with unique Content access code/numbers displayed in the classified portion of the body of a magazine, or which are in classified-type format within the magazine.

- The size of the text showing the cost of access must be in **9 point font size**

This is 9 point Arial Font

- The access cost text must be in a non-serif font, preferably 'Arial' font.
- All access cost information must be placed horizontally.

5.2.2.2 **Position Of Cost Text:**

- For each unique access number, the full and final cost of the access must be displayed immediately below, or above, or adjacent to the unique access number or Content access code in a non-serif font, even if there is a uniform cost of access displayed throughout the magazine and/or a series of pages allocated to one advertiser.
- If multiple offers are made in the same advertisement (spread across one or more pages) and the cost differs with each offering, each offering must clearly show the individual costs, again immediately below, or above, or adjacent to the unique access number in a non-serif font

5.2.3 **T&C DISPLAY RULES:**

5.2.3.1 **Formatting Of T&C Text**

- **Non-Classified Advertisements**

- The size of the text showing the T&C must be in **9 point font size**

This is 9 point Arial Font

- The T&C cost text must be in a non-serif font, preferably 'Arial' font.
- All T&C information must be placed horizontally.

- **Classified Advertisements:**

This applies to Classified Advertisements - ie advertisements with unique Content access code/numbers displayed in the classified portion of the body of a magazine, or which are in classified-type format within the magazine.

- The size of the text showing the T&C must be in **8 point font size**

This is 8 point Arial Font

- The T&C must be in a non-serif font, preferably 'Arial' font.
- All T&C information must be placed horizontally.

5.2.3.2 **Position T&C Of Text**

- The T&C text must be displayed on the same page as the unique access number it applies to, even if there is a uniform T&C applicable to all Content in a magazine or applicable to all the Content in advertisement spread across a number of pages. Where the advertisement is a double-page only advertisement (with the entire advertisement contained on two facing pages), then it is sufficient that the T&C be placed on only one of the facing pages, provided the T&C is generally applicable to all the Content and Access numbers on both facing pages. If there is any deviation in the general applicability of the T&C, the exact T&C relating to that deviation must be placed at the point where different T&C would apply. (The same font sizes and layout must be used)
- If multiple offers are made on the same advertisement and the cost and T&C differ with each offering, each offering must show the cost & T&C separately and clearly.

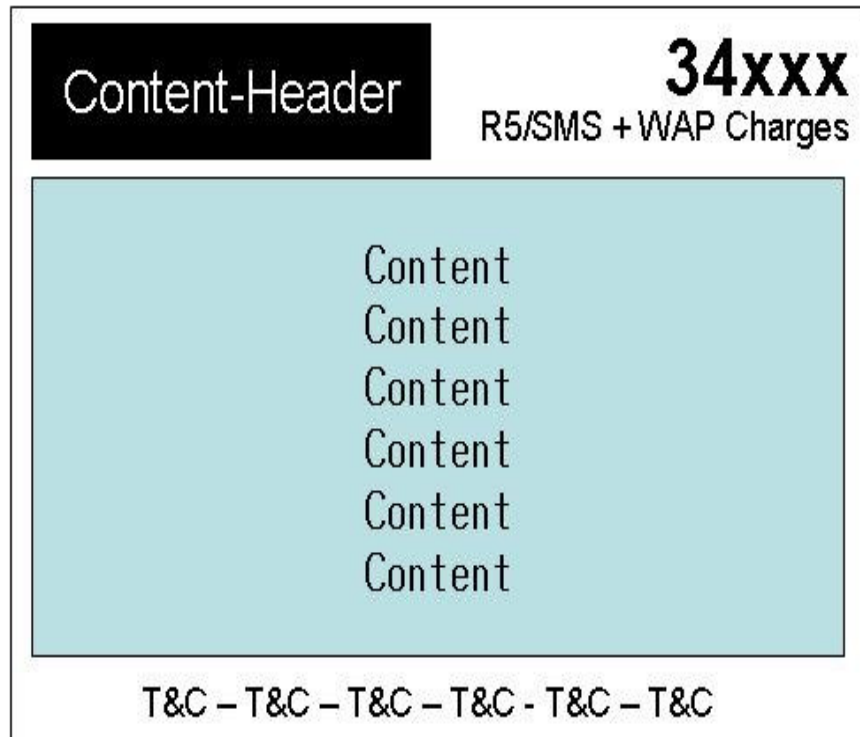
This is 5 point times new roman font
This is 6 point times new roman font
This is 7 point times new roman font
This is 8 point times new roman font THIS IS 8 POINT TIMES NEW ROMAN FONT IN CAPS. TIMES ROMAN IS A SERIF FONT
This is 9 point times new roman font
This is 10 point times new roman font
This is 11 point times new roman font
This is 12 point times new roman font
This is 13 point times new roman font
This is 14 point times new roman font
This is 15 point times new roman font
This is 16 point times new roman font
This is 17 point times new roman font

This is 5 point arial font
This is 6 point arial font
This is 7 point arial font
This is 8 point arial font THIS IS 8 POINT ARIAL FONT IN CAPS. ARIAL IS A NON-SERIF FONT.
This is 9 point arial font
This is 10 point arial font
This is 11 point arial font
This is 12 point arial font
This is 13 point arial font
This is 14 point arial font
This is 15 point arial font
This is 16 point arial font
This is 17 point arial font
This is 18 point arial font
This is 19 point arial font

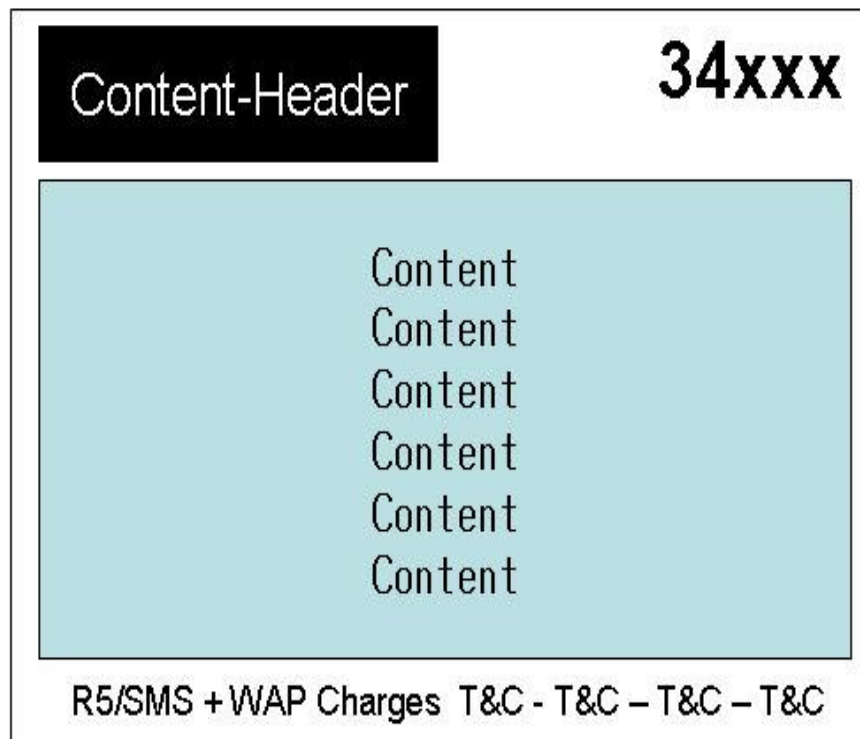
This is 5 point verdana font
This is 6 point verdana font
This is 7 point verdana font
This is 8 point verdana font THIS IS 8 POINT VERDANA FONT IN CAPS. VERDANA IS A NON-SERIF FONT.
This is 9 point verdana font
This is 10 point verdana font
This is 11 point verdana font
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This is 13 point verdana font
This is 14 point verdana font
This is 15 point verdana font
This is 16 point verdana font
This is 17 point verdana font
This is 18 point verdana font
This is 19 point verdana font

Illustrative Pricing Example:

Correct



Incorrect



5.3 GENERAL TERMS

5.3.1 **ADULT SERVICES [See also Age-Restricted Services]**: If the ads used to advertise any Adult Content *themselves* contain Adult Content, these ads are restricted to Adult Media // Ads referring to any Adult Content are restricted under certain conditions // An age verification system must be used for access to any Adult Content. // A warning that users must be 18 years or older to use a service must be shown

- **Advertisements Containing Adult Content (Images/Words/Sounds):**

In respect of the format and design of advertisements which are used to advertise Adult Content Services, if the advertisements *themselves* contain visual images and/or words or phrases that constitute or depict sexual conduct as is defined in the Films and Publications Act 65 of 1996, then these advertisements may only be advertised in Adult media. This restriction applies even if 'stars,' black strips or other attempts at direct visual blocking or disguising of any sexual conduct or explicit nudity are used in an advertisement.

- **Advertisements With References To Adult Content:**

In respect of an advertisement that contains references to Content Services, where that Content constitutes or depicts sexual conduct as defined in the Films and Publications Act 65, **but** where the advertisement itself for that Content does not constitute or depict sexual conduct as defined in the Films and Publications Act 65, then advertisements that so contain references to the (explicit) Content *may* be placed in any media, provided that:

- (a) An Adult Verification System is in place for access to that Content or service, **AND THAT**
- (b) The format, placement and design of the advertisement so referring to the (explicit) Content
 - is in keeping with the general nature, tone and theme of that particular media and is not calculated to offend the audience having access to that media, **AND**
 - abides by any advertising rules set by the owner or controller of that particular media, **AND**
 - conforms to any rulings issued by the ASASA in respect of that particular type of advertisement and media, **AND**

- conforms to any similar rulings by the WASPA Adjudicator or WASPA Appeals Panel in respect of that particular type of advertisement and media, **AND WHICH**
- conforms to any particular rules set by any mobile operator in respect of use of that Access Channel

- **WATERSHED HOURS:**

For broadcast media (eg TV/Radio) where a policy of watershed hours is implemented, advertisements containing sexually explicit words, images, or sounds:

- (a) may only be broadcast during the watershed hours so defined by a licensed broadcaster,

AND

- (b) may not contain any sexual Content or nudity in excess of that displayed within the programme the advertisement is placed in. For example, if no nudity is displayed within the programme, then no nudity (whether depicted through animation or otherwise) is allowed in the advertisement.

IMPORTANT NOTE:

It is entirely the responsibility of those placing an advertisement to determine which laws apply to its service as well as the extent or not of the Adult nature of the programme advertised in.

Advertisers must thus contact the relevant broadcaster to determine the classification/rating of any programme before placing their advertisements.

- Any advertisement that has reference to Content or services that are legally restricted to use only by Adults must indicate that it is for Adults only and/or that verification of the user's age may be required.

This indication must be placed both in the T&C and in the body of advertisement where the service

or Content is advertised.

- No abbreviations to indicate the Adult restriction are allowed (eg '18' or '18+' may not be used).

Rather, text indicating the Adult restriction should use the following terminology:

"Adults Only. Verification of your age may be required." or

"You must be over 18 to view images or hear sounds. Verification of your age may be required." or

"You must be over 18 to enter this competition. Verification of your age may be required."

5.3.2 **Age-Restricted Services** Indicate If Age-Restricted

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services - or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.

Examples of Age-Restricted Services (non-exhaustive list):

- Gambling Services
 - Contact-type services where Children may potentially come into contact with Adults masquerading as Children
 - Adult Content
 - Dating Services
 - Content that does not necessarily fit the definition of Adult Content, but which may contain images, audio or text that is obscene or otherwise unsuitable for access and consumption by Children
 - Competitions with Age Restrictions
- No abbreviations to indicate the Age Restriction are allowed (eg '18' or '18+' only may not be used).

Rather, text indicating the Age Restriction should use the following terminology:

“Adults Only. Verification of your age may be required.” **or**

“You must be over 18 to view images or hear sounds. Verification of your age may be required.” **or**

“You must be over 18 to enter this competition. Verification of your age may be required.”

5.3.3 **AVAILABILITY OF CONTENT/SERVICES:** Indicate any restrictions

If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Example: “Live chat not available between 01h00 and 07h00”

5.3.4 **BEARER REQUIREMENTS & CHARGES:** Indicate need for and possibility of additional bearer charges eg WAP

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text in both the body of the advertisement as well as in the T&C must indicate that additional bearer charges may apply.

eg **“R10/Game + WAP charges”**

- o [See also ‘**PRICING**’ below]
- o [See also ‘**TOTAL ACCESS REQUIREMENTS**’ below]

5.3.5 **COMPETITIONS:** Indicate If Prize Award is Conditional // Must have and show a closing date If Conditional

(Note: This section is not meant to be an exhaustive overview of any possible permutation of competition types. The general guiding principles remain however)

- Promotional material must clearly state any information which is likely to affect a decision to participate, including:
 - o the closing date;
 - o any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - o an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
 - o any significant age, geographic, or other eligibility restrictions;
 - o any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.

- any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize

- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.
- Adverts for Competitions must show a specific closing date, except where there are instant prize-winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.
- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text
- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.
- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.
- All correct entries must have the same chance of winning.

Best Practice Suggestion For Instant Notification Of Prize Winners With no minimum requirements entry conditions:

Display text: E.g. "Prizes will only be awarded after 1 Jan 200x"

Display text: E.g. "Competition closes after 1,000 entries received".

Display text: E.g. "Every 50th SMS received wins a prize. Prizes awarded after 1 December 2006."

Best Practice Suggestion For Instant Prize Competitions With Minimum Entry Requirements:

Display text: E.g. "Competition begins after 1,000 entries received. Closes 1 January 2007".

Display text: E.g. "Competition begins after 1,000 entries received. Every 50th SMS received thereafter wins a prize. Prizes awarded after 1 December 2006."

- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but

WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.

- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

5.3.6 **CONTACT DETAILS:** Provide web site address AND helpline number/shortcode // Contact details must be displayed as part of the T&C details.

- Advertisers must include a helpline number or a working web site address that has direct applicability and linkage to the advertiser
- If an IVR or SMS system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for contacting the advertiser or as a helpline access, then the fact that this access number is Premium Rated or uses VAS rates must be indicated next to the access number.

◦ Eg **"Helpline 08x-xxx-xxxx. VAS Rates. Free Minutes Do Not Apply.**

- Note the general rule in v3.2 of the WASPA Code Of Conduct that a Premium Rated SMS number used as a contact number for the advertiser, or as a helpline, or for unsubscribing from a service **may not exceed R1 in total.**

◦ **Eg : "SMS 'Help' to 31xxx. R1/SMS. Premium Rates. Free SMSs Do Not Apply."**

5.3.7 **CONTACT-TYPE SERVICES:** Indicate If Any restrictions apply to access or use // Indicate if multiple registration or other steps required before full use of advertised service is possible // Indicate Adult and/or Age-Restricted nature of the service if advertised as having sexual content or ordinarily unsuitable for access and use by children // Use AVS if service has Adult Content as defined and/or if Age-Restricted // Indicate source and unsubscribe facility if no contact for more than 10 days

- If a Contact-type service is advertised as containing sexual content or is advertised as having content that, ordinarily, would be unsuitable for children, then advertisements for that service must indicate that it is for use by Adults only.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- If a Contact-type service is advertised as containing sexual content, then an **Adult Verification System** must be used for registration of new users to that Contact-type service.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- Advertisements for any interactive chat, flirt, dating or similar Contact-type services (whether anonymous or not) must indicate whether any restrictions apply to its full use. Eg Time of day, age.
 - [See also "**AVAILABILITY OF CONTENT/SERVICES**" above]
 - [See also Definition of "**ADULT**" above]

- If a user must first successfully complete multiple steps requiring multiple communications to the service before they are able to fully access or use the service as advertised, then this must be specified in the advertisement.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

- If using SMS as the Access Channel for a Contact-type service, each request for a user to respond to a message sent to a user as part of that service must indicate the price of the reply

if the price at any stage of the communication, differs at all from the initial advertised service price.

- If using SMS as the Access Channel for a Contact-type service, and where there has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and no more than 120 seconds if using IVR or any other time-based method as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- If a Contact-type service using IVR as the Access Channel requires the user to first listen to a (recorded) audio before they can access the actual person, service or facility otherwise so indicated or suggested by the wording or design of the advertisement, and this waiting time **exceeds 60 seconds** from the start of the IVR call, then the minimum 'waiting' time must be also indicated.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below"]

5.3.8 **DISTRIBUTION LISTS**: Indicate If Consumer Automatically Placed On List. // No sexual or sexually suggestive Content in list if the list recipient does not request or expect it. // Provide reasonable opt-out procedure // Sender must have direct and recent association with recipient

- If by requesting any Content or accessing a service, the consumer so doing is automatically placed on a distribution list that will continuously or periodically send that consumer further related or unrelated communications from that Content provider or any other Content provider or advertiser, then the T&C text must explicitly specify in the T&C that updates will be sent until cancelled. *[Note that v3.2 of the Code of Conduct specifies that the sender must have a "Direct & Recent" association with the recipient].*

Best Practice Suggestion

Display text: "Updates sent until cancelled"

- 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.
- The sender to a distribution list must indicate the cost and T&C of access to a service in each and every communication, even the receiver was previously a user of that service. No assumption as to the knowledge of the recipient in respect of the costs and T&C of a service must be made for users who had previously used the service.
- If using SMS as the Access Channel and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, must indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and may not be more than 120 seconds if using IVR or any other voice-based system as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- **Opt-Out:** Any further communication with a consumer in a distribution list must contain a relatively easy and unambiguous method for immediately opting-out of any further communications from that distribution list:
 - **Fax:** No premium rated fax lines [eg 0866 fax-2-email type numbers] may be used for the mandatory opt-out procedure.
 - **SMS:** The total cost of opting-out from any distribution list using a premium rated SMSs Access Channel may not exceed R1 total cost
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]
 - [See also v3.2 of "**WASPA CODE OF CONDUCT**"]
 - **IVR (or any other time-based method):** Where applicable, any IVR systems used for any opt-out procedure must be designed so that a reasonable user will not need to exceed 120 seconds (from the start of the IVR call or time-based method) for the entire opt-out process.
 - [See also "**PRICING**" below]
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

5.3.9 **FAILED REQUESTS:** Indicate If Failed Requests Billed

- If for any reason the service bills for incorrect, failed, or unsuccessful requests, then the T&C text must display this (if applicable)

Best Practice Suggestion:

Display text: "Errors billed"

5.3.10 **LIVE SERVICES:** [In relation to live Contact-type services only] Advertisements may not use the word 'live' to describe systems where a recording or an automated system is used in place of a real-time interaction with a human

- No advertisement may be designed or worded in a manner that may create an expectation by a reasonable person that there is real-time or near-real time communication with a human offered as part of the service, where in fact there is no live real-time or near-real-time interaction whatsoever with a human available as part of that advertised service, or where the real time interaction with the human does not constitute the essence of the service

Eg Recordings that simulate "eavesdropping" on purported conversations between two or more persons do not constitute 'live services'.

- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.
 - [See "**AVAILABILITY OF CONTENT/SERVICES**" above]

5.3.11 **NETWORK COMPATIBILITY:** Indicate If Services Are Network-dependent // Indicate if subscription-type dependent

- There must be an clear indication in the advertisement detailing which mobile networks the user must have access to for fully access any Content and/or participate in the service offered
- If only contract-only or prepaid-only users have access to the service, this must be indicated

- 5.3.12 **PRICING:** Show component, bearer and total cost //
Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised

Overview:

The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.

Background:

Note that the term "Standard Rates Apply" as has in the past been used widely is, according to the definitions supplied by all three mobile networks, an **incorrect** description of IVR and PSMS, as a "**Standard Rate**" is only applicable to use of eg free bundled SMSs/Minutes. The original term was "VAS Standard Rates Apply" which was only applicable to IVR access, but which many over time **incorrectly** abbreviated to "Standard Rates" with purported applicability to for both IVR, PSMS, and Premium Rated USSD Access Channels.

Standard Rate: [see Also definition of Standard Rate in the Definition section]

A Standard Rate is a rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies. Thus, where free/bundled SMSs/Minutes cannot be utilized or where the tariff for an Access Channel differs from the in-bundle tariff for any user pursuant to the terms of conditions of the service agreement that user has with a mobile network operator, then term "**Standard Rate**" may not, from implementation of the Ad Rules, be used under those circumstances.

Instead, the following must be used:

For IVR Lines: "VAS Rates Apply. Free Minutes Do Not Apply"

Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".

Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) if the SMSs/Minutes are not available free or in a bundle.

(a) **Bearer Costs:**

If additional WAP/GPRS bearer charges may be incurred over and above any other Access Channel costs, the possibility thereof must be indicated.

eg "**2x R5 SMS = Total R10 + WAP Charges**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below]

(e) **IVR:**

- Any IVR system using a VAS rated Access Channel provided by or through a licensed mobile operator for access to any services or Content must be identified as such, along with a notice that free minutes will not apply.

- If the minimum amount of time the user is required to stay on the line to access the service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised service or Content must be indicated.
- The following is an example of component and total cost indications:

Examples:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reason:

- VAS rate nature of the phone number has not been disclosed
- Inability to use free minutes has not been disclosed
- Minimum amount of time to fully access service/Content has not been disclosed
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below for more detailed requirements]

(c) **USSD:**

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the potential for any additional costs associated with specific menu selections.
 - [See "**USSD ACCESS**" below]

(d) **SMS:**

- The cost of a single (or component) SMS used for access to a service must be indicated.
- If more than one SMS is required to access the service/Content, then the number of SMSs so required and their individual cost for access must be indicated. The total cost involved in accessing the full service based on the cumulative number of SMSs required must also be disclosed.

For example, if a number of SMSs are required for registration before full access and use of an advertised service becomes available to a user, then the possibility thereof and then the number of required SMSs must be indicated.

Eg "2x R5 SMS = Total R10 + WAP Charges"

Eg "3 x R5 SMSs required for service registration. Total cost R15"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below for detailed requirements]

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3a (where NOT part of a subscription service):

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3b (where part of a subscription service that eg has a minimum of 5 weeks subscription):

Correct: "Subscription Service. R5/week for 6 weeks. Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

5.3.13 **SUBSCRIPTION SERVICES:** Show Total Subscription Charge, Frequency of Charge, any bearer charges and any additional charge/s

(i) **Must Use The Words "Subscription Service"**

If the Content provider is providing a continuous, subscription-like or subscription-based service, then the words "Subscription Service" must be prominently displayed at the top section of the advertisement as well as at each Content or service section in the advertisement where various subscription types are displayed.

No acronym, letter (eg "S"), number, abbreviation (eg "Subs"), icon, or any other mark may be used as an alternative to the words "Subscription Service" anywhere in the advertisement when that Content is only available at all and/or at a particular cost as part of a subscription service.

(ii) **Must Indicate Charge/s:**

The advertisement must indicate in the font size, position and type as indicated:

- (a) The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- (b) The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- (c) Whether, in addition to the periodic subscription charges in (a) & (b) above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement. **[See (iii) below]**

This indication must include the potential and cost of any (additional) bearer charges.

(iii) **Must Indicate Cost Of Any (Additional) Per-Content Access**

If in addition to a periodic subscription charge the consumer could additionally be charged on a per-access basis for access to any particular service, Content or class of Content on the advertisement within the subscription period and terms, then the advertiser must make it clear to the consumer that access this Content or service will, over and above the periodic subscription cost, incur additional charges per Content or service access.

The periodic subscription cost, the frequency of the periodic charge, and where applicable, the additional access cost must all be displayed clearly and TOGETHER, in a position immediately above, below, or to the side of the Content, service, or class of Content. There must in particular be an indication whether bearer charges are included or not in the access cost.

- [See also '**BEARER CHARGES**' above)

(iv) **Must Differentiate Clearly Between Multiple Subscription Types**

If in any advertisement there may exist the possibility to subscribe to a number of individual subscription services which would ordinarily each carry a separate but additional subscription charge and associated charging frequency or additional per-Content access charge, then this possibility of the consumer being charged at multiple prices and charging frequency must be clearly indicated.

(v) **Must clearly Differentiate Between Non-subscription and subscription Types if both available in the same advertisement:**

Taking into account the provisions in section 11.1.2 in v3.2 of the WASPA Code Of Conduct on relating to an "**independent transaction**," if an advertisement has components to it that promote

(a) Content that is ordinarily made available to a consumer on payment of a once-off payment for that individual Content without the need to subscribe to that service,

AND

(b) Content that will be available at all, and/or at a particular price or even free only if the consumer subscribes to a subscription service,

then this distinction between the availability of non-subscription and subscription charging must be made clear by unambiguously demarcating in separate sections (and not just wording) the non-subscription portion from the subscription service portion or Content in the advertisement.

The words "Subscription Service" as well as the total charges and any additional access charges and charge frequency for that subscription service must be clearly indicated in the form specified.

ADDITIONAL BACKGROUND NOTES TO SUBSCRIPTION SERVICES:

Any request to be subscribed to a subscription service must be an **INDEPENDENT TRANSACTION** (see s11.1.2 of v3.2 of the WASPA Code of Conduct). Hence subscribers cannot be subscribed to a subscription service through having requested specific Content, or having being made to believe by a (practically) confusing ad design that they are requesting Content on a once-off (non-subscription) basis.

Confusion by consumers may arise in cases where a single advert may indicate the availability of Content to users (usually on a network that has not enabled subscription services) on a once-off basis, as well as on a subscription basis (to users on a network that has enabled subscription services), even though the subscription and non-subscription services may be on a different number range.

If confusing, this may create the scenario where the consumer lacks a specific intention of subscribing to a service (s11.1.2).

To avoid this scenario, advertisers must avoid advertising material designs where subscription service access can be confused with non-subscription services for the same or same type of Content in the same ad. Unless this distinction is made clear, the non-subscription portion of an ad which has as its center the requesting of specific Content (on a once-off basis to users on a network that does not have subscription services) may have the effect of (possibly inadvertently) **breaching** the 'independent transaction' criteria of the subscription portion of the code of conduct (See also s11.1.4 of v3.2 of the Code of Conduct)

5.3.14 **TECHNICAL CONDITIONS FOR ACCESS:** Indicate which users and/or phones can access services

- The display text must indicate whether the service can only be accessed by:

- (p) Phones with any particular technical specification(s)
- (q) Any particular time period [See also "**AVAILABILITY OF SERVICES/CONTENT**" above]
- (r) Any particular bearers [See also "**BEARER CHARGES**" above]
- (s) Any particular mobile operator networks [See also "**NETWORK COMPATIBILITY**" above]
- (t) Any particular mobile operator subscription types [See "also **NETWORK COMPATIBILITY**" above]

However, because there are numerous phones on the market each with different technical specifications, it may be impractical to list all these handsets in media which is non-permanent (eg TV/Radio). These must however be shown in permanent media (eg Web/Print)

INDICATE IF SERVICE IS HANDSET-RESTRICTED

[Note: *Best efforts at handset compatibility if restricted to more than 30 handset models*]

- *Nokia Series60 handset required* **or**
- *Java Handset Required* **or**
- *Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS)* **or**
- *Only available for Compatible Handsets. For List, see xyz.co.za/handsets* **or**
- *Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).*

5.3.15 **TOTAL ACCESS REQUIREMENTS:** WAP/GPRS: Indicate if WAP/GPRS require // For SMSs:

Indicate Number Of SMSs required for full access to Content or for registration to allow full use of the advertised service. // For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper // Include possibility of bearer charges if applicable.

o [See also "**PRICING**" above]

- WAP/GPRS

Indicate if WAP and/or GPRS is required for full access to the Content/services.

- IVR:

If an IVR system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for access to any services or Content, and the minimum time a reasonable user would require for minimum access to the advertised service or Content **exceeds 60 seconds**, then the minimum amount of time required for this minimum access to the Content or service must be indicated.

For example, if a Contact-type service, Competition line, or similar service exceeds 60 seconds in total length (from the start of the call) by requiring the user to first listen to for example **2 minutes** (120 seconds) of recorded audio before they can access the actual person, service or facility otherwise so indicated by the wording or design of the advertisement, then this minimum 'waiting' time must be also indicated.

EXAMPLE:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply.
Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reasons:

- No Indication Of VAS Rate nature of 08x access number.
- No Indication that Free Minutes are not available for access to the service.
- (If over 60 seconds waiting time), No minimum call time to access service proper indicated.

- **SMS:**

If more than one SMS is required to access the service/Content (and if additional bearer charges may apply), then indicate:

- (m) The number of SMSs required **AND**
- (n) The individual component cost for access must be indicated **AND**
- (o) The total cost involved in accessing the full service. **AND**
- (p) Any additional bearer or Content/service charges must be indicated.

For example, if a number of SMSs are required for before full access and use of an advertised service becomes available to a user, then the possibility thereof and if so, the minimum number of required SMSs must be indicated in the T&C.

Eg "2x R5 SMS = Total R10 + WAP Charges. Premium Rates. No Free SMSs"

Eg "3 x R5 SMSs required for registration. Total cost R15. Premium Rates. Free SMSs Do Not Apply."

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3a (where NOT part of a subscription service):**

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3b (where part of a subscription service that has eg a minimum of 6 weeks subscription):**

Correct: "Subscription Service. R5/week for 6 weeks.
Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

5.3.16 **USSD ACCESS:** Show Initial USSD Access Charges and Minimum Access times (if over 90 seconds)

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

Best Practice Suggestion:

Display Text: "Initial access cost 20 cents/20 seconds. Minimum 120 seconds."

5.3.17 **VAS/PREMIUM RATES:** Indicate That Free Minutes/SMSs Do Not Apply

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

5.3.18 **VAT:** All prices must include VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

Best Practice Suggestion:

Display Text: "All prices include VAT."

5.4 INFORMATION REQUIRED FOR DISCLOSURE

5.4.1 Where Applicable, The Following Is Mandatory Information That Must Be Displayed In Any Advertisement In Any Media Where An Access Channel Is Advertised:

1. PROVIDE CLEAR INDICATION OF TOTAL COST

- R5/SMS. Premium rates. Free SMSs Do Not Apply.
- R20/game. Premium rates. Free SMSs Do Not Apply. WAP required.
- Two SMSs Required at R--- each. Premium rates. Free SMSs Do Not Apply.
- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply.

2. PROVIDE CLEAR INDICATION OF MINIMUM REQUIREMENTS TO FULLY ACCESS SERVICE/CONTENT

- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply. Minimum 3 minutes.
- Seven SMSs at R--- each for registration. Premium rates. Free SMSs Do Not Apply.

3. INDICATE IF SUBSCRIPTION SERVICE, AND NATURE THEREOF - INCLUDING PRICE AND (MINIMUM) FREQUENCY

- This is a subscription service. You will be automatically charged R--- every week until you unsubscribe.
- This is a subscription service. You will be charged R-- per week until you unsubscribe, plus R—per wallpaper. WAP required.”

4. INDICATE WEB SITE ADDRESS IF REFERRING TO ADDITIONAL T&CS VIA WEB

- Eg xyz.co.za/tc

5. INDICATE CUSTOMER CARE ACCESS NUMBER

- Helpline 0xx-xxx-xxxx for
- For Help, SMS to 3xxxx (R1/SMS)

6. IDENTIFICATION OF WHO IS PROVIDING THE ADVERTISED SERVICE

- NiceCompany (Pty) Ltd

7. INDICATE IF ANY ACCESS REQUIREMENTS

- WAP Required
- GPRS Required
- WAP/GPRS required

8. INDICATE IF SERVICE IS HANDSET-RESTRICTED [Note: Best efforts at handset compatibility if restricted to more than 30 handset models]

- Nokia Series60 handset required **or**
- Java Handset Required **or**
- Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS) **or**

- Only available for Compatible Handsets. For List, see xyz.co.za/handsets
or
- Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).

9. INDICATE IF FAILED REQUESTS OR ERRORS CHARGED

- Errors charged
- Failed Requests Billed

10.INDICATE NETWORK / ACCESS RESTRICTIONS (IF ANY)

- XYZ Network contract subscribers only

11.INDICATE IF ACCESS TO SERVICE AUTOMATICALLY PLACES USER ON A DISTRIBUTION LIST. INDICATE METHOD & COST OF UNSUBSCRIBING.

- We reserve right to contact you. Updates sent until cancelled. Send 'unsubscribe' to 3xxxx (R1)
- Updates sent until cancelled. Send 'stop' to 3xxxx (R1)

12.INDICATE CLOSING DATE AND T&Cs OF COMPETITIONS

- Competition closes 1 January 2006. Winners will be notified by SMS. You must be over 18 to enter

13.INDICATE IF ANY AVAILABILITY RESTRICTIONS

- Live chat unavailable 01h00-07h00

14.INDICATE THAT ALL PRICES INCLUDE VAT

- All Prices include VAT.

15.INDICATE IF ANY AGE RESTRICTIONS

- Adults only. You may be asked to verify your age.

16.Indicate that consent to use service must first be required by bill payer

- Obtain bill payers consent before using this service

6 CONTENT BOOKLETS

6.1 SCOPE

Applies to booklets that may contain offerings from a single or multiple Content vendors using access delivery channels with one or more type of cost for access.

Note:

The criteria applying to Content booklets, magazines, flyers, any type of loose promotional material that contain Access Channels that may or may not be inserted into magazine as loose inserts, are individually discussed under separate headings in this document.

- See Section 5 for separate rules for general magazines e.g. YOU, GQ
- See Section 8 below for separate rules for Below-The-Line promotional material like flyers.
- This section 6 also applies also to Content booklets that may be inserted into other magazines as a loose inserts.
- This section 6 also applies to large-sized Z-cards.

6.2 **DISPLAY RULES FOR ACCESS COST AND T&C INFORMATION**

6.2.1 **Broad Overview**

TEXT SHOWING FULL COST AND T&C IS REQUIRED

- For each unique access number, the full cost of the access must be displayed **immediately** below, or above, or adjacent to the unique access number or content access code in a manner that is easily visible and readable. All access cost and T&C information must be placed horizontally.
- If the T&C associated with all access numbers in a Content booklet are generally consistent and applicable to all the Content and services within a Content booklet, then it is sufficient that these consistent T&Cs be placed in a reference page or section at the front of the booklet. However where there is any deviation from these general T&Cs, these deviations must be explicitly indicated immediately close to the access number/s, or Content/services to which this deviation in general T&Cs is applicable.
- **SMS/MMS**: The display text must indicate the TOTAL cost involved in obtaining the full service, and if applicable, also the number and component cost of the SMSs required for full access, and the potential for additional bearer charges.
- **IVR**: If a VAS-rated IVR system is used for access to any services or content, and the minimum time a reasonable user would require for full access to the advertised service or content **exceeds 60 seconds**, then the time required before full access to the advertised service or content is available must be indicated.
- **USSD**: If an USSD system is used for access to any services or content, and the minimum time a reasonable user would require for full access to the advertised service or content **exceeds 60 seconds**, then the time required before full access to the advertised service or content is available must be indicated.
- The pricing and T&C text must not be placed within the ad or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad
- The cost and T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C
- **Text Size For Non-Classified Ads**:
 - Access cost text must be in **11 point font size**, using a non-serif font. [This is 11 point Arial Font]
 - **T&C** text must be in **9 point font size** using a non-serif font [This is 9 point Arial Font]

SUBSCRIPTION SERVICES

Any advertisement that has a subscription service component must include:

- a) the periodic subscription charge, AND
- b) the charging frequency, AND
- c) Any additional premium-rated or other charges that might be applicable to access particular content or service

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.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

6.2.2 **COST OF ACCESS DISPLAY RULES**

6.2.2.1 Formatting of Access Cost Text:

- The size of the text showing the cost of access must be in **11 point font size**

This is 11 point Arial Font

- The access cost text must be in a non-serif font, preferably 'Arial' font.
- All access cost information must be placed horizontally.

6.2.2.2 Position of Cost Text

For each unique access number, the full and final cost of the access must be displayed immediately below, or above, or adjacent to the unique access number or Content access code in a non-serif font, even if there is a uniform cost of access displayed throughout the Content booklet and/or a series of pages in a booklet allocated to one advertiser.

If multiple offers are made in the same advertisement (spread across one or more pages) and the cost differs with each offering, each offering must clearly show the individual costs, again immediately below, or above, or adjacent to the unique access number in a non-serif font.

6.2.3 **T&C DISPLAY RULES**

6.2.3.1 **Formatting of T&C Text**

- The size of the text showing the T&C must be in **9 point font size**

This is 9 point Arial Font

- The T&C cost text must be in a non-serif font, preferably 'Arial' font.
- All T&C information must be placed horizontally.

6.2.3.2 **Positioning Of T&C Text**

- If the T&C associated with all access numbers in a Content booklet are generally consistent and applicable to all the Content and services within a Content booklet, then it is sufficient that these consistent T&Cs be placed in a reference page or section at the front of the booklet. However where there is any deviation from these general T&Cs, these deviations must be explicitly indicated immediately close to the access number/s, or Content/services to which this deviation in general T&Cs is applicable.
- The pricing and T&C text must not be positioned or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad
- The cost and T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C

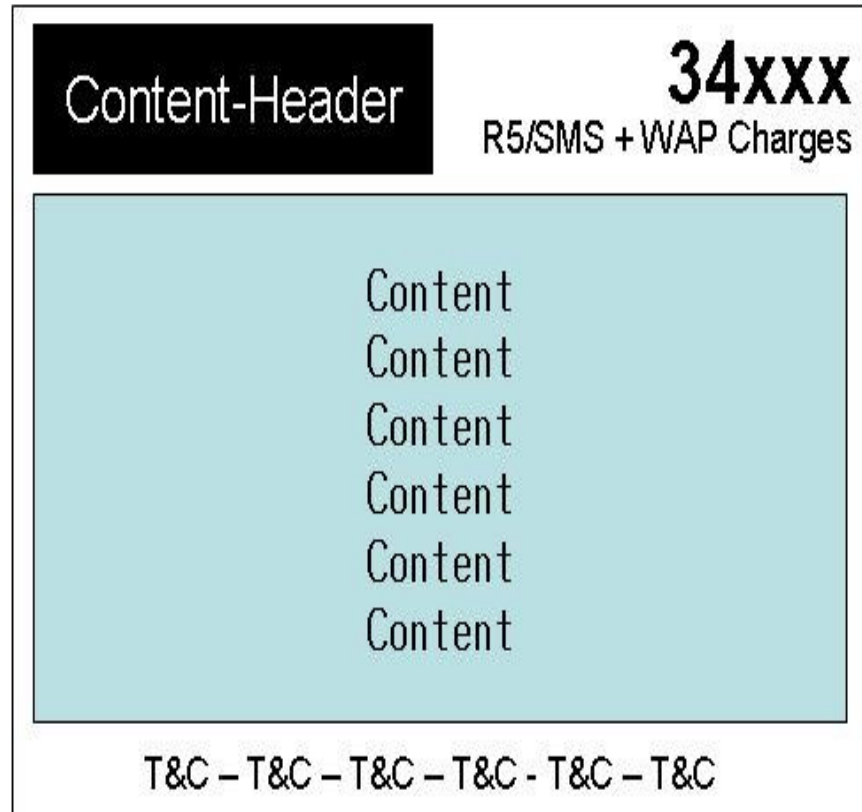
This is 5 point times new roman font
This is 6 point times new roman font
This is 7 point times new roman font
This is 8 point times new roman font THIS IS 8 POINT TIMES NEW ROMAN FONT IN CAPS. TIMES ROMAN IS A SERIF FONT
This is 9 point times new roman font
This is 10 point times new roman font
This is 11 point times new roman font
This is 12 point times new roman font
This is 13 point times new roman font
This is 14 point times new roman font
This is 15 point times new roman font
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This is 17 point times new roman font

This is 5 point arial font
This is 6 point arial font
This is 7 point arial font
This is 8 point arial font THIS IS 8 POINT ARIAL FONT IN CAPS. ARIAL IS A NON-SERIF FONT.
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This is 12 point arial font
This is 13 point arial font
This is 14 point arial font
This is 15 point arial font
This is 16 point arial font
This is 17 point arial font
This is 18 point arial font
This is 19 point arial font

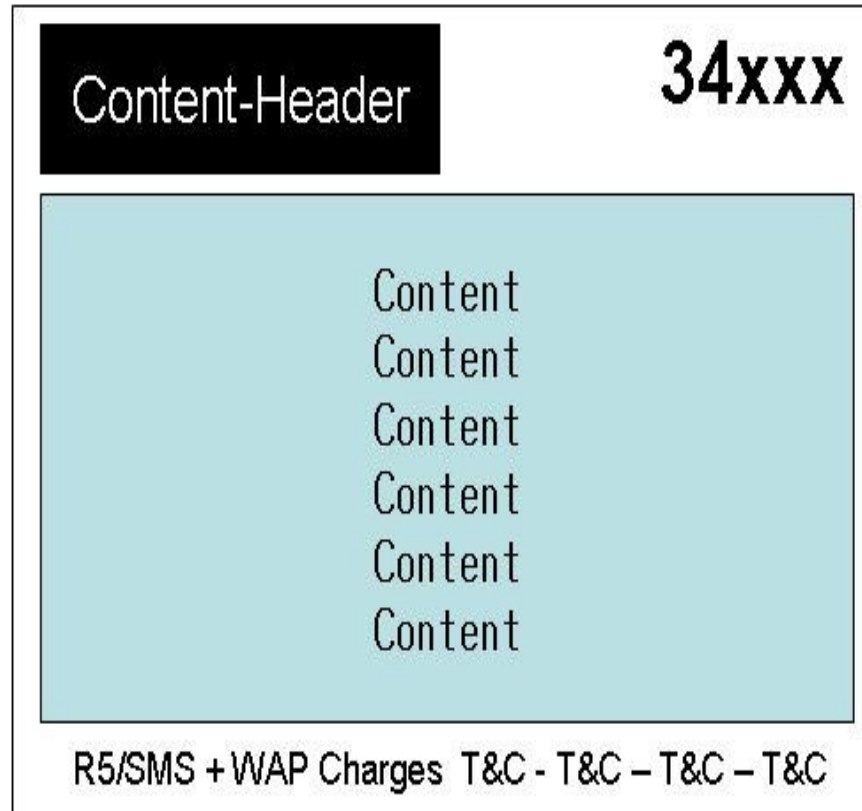
This is 5 point verdana font
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This is 7 point verdana font
This is 8 point verdana font THIS IS 8 POINT VERDANA FONT IN CAPS. VERDANA IS A NON-SERIF FONT.
This is 9 point verdana font
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This is 17 point verdana font
This is 18 point verdana font
This is 19 point verdana font

Illustrative Pricing Example:

Correct



Incorrect



6.3 GENERAL TERMS

6.3.1 **ADULT SERVICES [See also Age-Restricted Services]**: If the ads used to advertise any Adult Content *themselves* contain Adult Content, these ads are restricted to Adult Media // Ads referring to any Adult Content are restricted under certain conditions // An age verification system must be used for access to any Adult Content. // A warning that users must be 18 years or older to use a service must be shown

- **Advertisements Containing Adult Content (Images/Words/Sounds):**

In respect of the format and design of advertisements which are used to advertise Adult Content Services, if the advertisements *themselves* contain visual images and/or words or phrases that constitute or depict sexual conduct as is defined in the Films and Publications Act 65 of 1996, then these advertisements may only be advertised in Adult media. This restriction applies even if 'stars,' black strips or other attempts at direct visual blocking or disguising of any sexual conduct or explicit nudity are used in an advertisement.

- **Advertisements With References To Adult Content:**

In respect of an advertisement that contains references to Content Services, where that Content constitutes or depicts sexual conduct as defined in the Films and Publications Act 65, **but** where the advertisement itself for that Content does not constitute or depict sexual conduct as defined in the Films and Publications Act 65, then advertisements that so contain references to the (explicit) Content *may* be placed in any media, provided that:

- (a) An Adult Verification System is in place for access to that Content or service, **AND THAT**
- (b) The format, placement and design of the advertisement so referring to the (explicit) Content
 - is in keeping with the general nature, tone and theme of that particular media and is not calculated to offend the audience having access to that media, **AND**
 - abides by any advertising rules set by the owner or controller of that particular media, **AND**
 - conforms to any rulings issued by the ASASA in respect of that particular type of advertisement and media, **AND**
 - conforms to any similar rulings by the WASPA Adjudicator or WASPA Appeals Panel in respect of that particular type of advertisement and media, **AND WHICH**

- conforms to any particular rules set by any mobile operator in respect of use of that Access Channel

- **WATERSHED HOURS:**

For broadcast media (eg TV/Radio) where a policy of watershed hours is implemented, advertisements containing sexually explicit words, images, or sounds:

- (a) may only be broadcast during the watershed hours so defined by a licensed broadcaster,

AND

- (b) may not contain any sexual Content or nudity in excess of that displayed within the programme the advertisement is placed in. For example, if no nudity is displayed within the programme, then no nudity (whether depicted through animation or otherwise) is allowed in the advertisement.

IMPORTANT NOTE:

It is entirely the responsibility of those placing an advertisement to determine which laws apply to its service as well as the extent or not of the Adult nature of the programme advertised in.

Advertisers must thus contact the relevant broadcaster to determine the classification/rating of any programme before placing their advertisements.

- Any advertisement that has reference to Content or services that are legally restricted to use only by Adults must indicate that it is for Adults only and/or that verification of the user's age may be required.

This indication must be placed both in the T&C and in the body of advertisement where the service or Content is advertised.

- No abbreviations to indicate the Adult restriction are allowed (eg '18' or '18+' may not be used).

Rather, text indicating the Adult restriction should use the following terminology:

"Adults Only. Verification of your age may be required." or

"You must be over 18 to view images or hear sounds. Verification of your age may be required." or

"You must be over 18 to enter this competition. Verification of your age may be required."

6.3.2 **Age-Restricted Services** Indicate If Age-Restricted

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services - or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.

Examples of Age-Restricted Services (non-exhaustive list):

- Gambling Services
 - Contact-type services where Children may potentially come into contact with Adults masquerading as Children
 - Adult Content
 - Dating Services
 - Content that does not necessarily fit the definition of Adult Content, but which may contain images, audio or text that is obscene or otherwise unsuitable for access and consumption by Children
 - Competitions with Age Restrictions
- No abbreviations to indicate the Age Restriction are allowed (eg '18' or '18+' only may not be used).

Rather, text indicating the Age Restriction should use the following terminology:

"Adults Only. Verification of your age may be required." or

"You must be over 18 to view images or hear sounds. Verification of your age may be required." or

"You must be over 18 to enter this competition. Verification of your age may be required."

6.3.3 **AVAILABILITY OF CONTENT/SERVICES:** Indicate any restrictions

If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Example: "Live chat not available between 01h00 and 07h00"

6.3.4 **BEARER REQUIREMENTS & CHARGES:** Indicate need for and possibility of additional bearer charges eg WAP

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text in both the body of the advertisement as well as in the T&C must indicate that additional bearer charges may apply.

eg "**R10/Game + WAP charges**"

- [See also '**PRICING**' below]
- [See also '**TOTAL ACCESS REQUIREMENTS**' below]

6.3.5 **COMPETITIONS:** Indicate If Prize Award is Conditional // Must have and show a closing date If Conditional

(Note: This section is not meant to be an exhaustive overview of any possible permutation of competition types. The general guiding principles remain however)

- Promotional material must clearly state any information which is likely to affect a decision to participate, including:
 - the closing date;
 - any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
 - any significant age, geographic, or other eligibility restrictions;
 - any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.
 - any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize

- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.
- Adverts for Competitions must show a specific closing date, except where there are instant prize-winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.
- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text
- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.
- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.
- All correct entries must have the same chance of winning.

Best Practice Suggestion For Instant Notification Of Prize Winners With no minimum requirements entry conditions:

Display text: E.g. "Prizes will only be awarded after 1 Jan 200x"

Display text: E.g. "Competition closes after 1,000 entries received".

Display text: E.g. "Every 50th SMS received wins a prize. Prizes awarded after 1 December 2006."

Best Practice Suggestion For Instant Prize Competitions With Minimum Entry Requirements:

Display text: E.g. "Competition begins after 1,000 entries received. Closes 1 January 2007".

Display text: E.g. "Competition begins after 1,000 entries received. Every 50th SMS received thereafter wins a prize. Prizes awarded after 1 December 2006."

- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.
- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

6.3.6 **CONTACT DETAILS:** Provide web site address AND helpline number/shortcode // Contact details must be displayed as part of the T&C details.

- Advertisers must include a helpline number or a working web site address that has direct applicability and linkage to the advertiser
- If an IVR or SMS system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for contacting the advertiser or as a helpline access, then the fact that this access number is Premium Rated or uses VAS rates must be indicated next to the access number.

- Eg **"Helpline 08x-xxx-xxxx. VAS Rates. Free Minutes Do Not Apply.**

- Note the general rule in v3.2 of the WASPA Code Of Conduct that a Premium Rated SMS number used as a contact number for the advertiser, or as a helpline, or for unsubscribing from a service **may not exceed R1 in total.**

- **Eg : "SMS 'Help' to 31xxx. R1/SMS. Premium Rates. Free SMSs Do Not Apply."**

6.3.7 **CONTACT-TYPE SERVICES:** Indicate If Any restrictions apply to access or use // Indicate if multiple registration or other steps required before full use of advertised service is possible // Indicate Adult and/or Age-Restricted nature of the service if advertised as having sexual content or ordinarily unsuitable for access and use by children // Use AVS if service has Adult Content as defined and/or if Age-Restricted // Indicate source and unsubscribe facility if no contact for more than 10 days

- If a Contact-type service is advertised as containing sexual content or is advertised as having content that, ordinarily, would be unsuitable for children, then advertisements for that service must indicate that it is for use by Adults only.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- If a Contact-type service is advertised as containing sexual content, then an **Adult Verification System** must be used for registration of new users to that Contact-type service.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- Advertisements for any interactive chat, flirt, dating or similar Contact-type services (whether anonymous or not) must indicate whether any restrictions apply to its full use. Eg Time of day, age.
 - [See also "**AVAILABILITY OF CONTENT/SERVICES**" above]
 - [See also Definition of "**ADULT**" above]

- If a user must first successfully complete multiple steps requiring multiple communications to the service before they are able to fully access or use the service as advertised, then this must be specified in the advertisement.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

- If using SMS as the Access Channel for a Contact-type service, each request for a user to respond to a message sent to a user as part of that service must indicate the price of the reply

if the price at any stage of the communication, differs at all from the initial advertised service price.

- If using SMS as the Access Channel for a Contact-type service, and where there has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and no more than 120 seconds if using IVR or any other time-based method as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- If a Contact-type service using IVR as the Access Channel requires the user to first listen to a (recorded) audio before they can access the actual person, service or facility otherwise so indicated or suggested by the wording or design of the advertisement, and this waiting time **exceeds 60 seconds** from the start of the IVR call, then the minimum 'waiting' time must be also indicated.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below"]

6.3.8 **DISTRIBUTION LISTS**: Indicate If Consumer Automatically Placed On List. // No sexual or sexually suggestive Content in list if the list recipient does not request or expect it. // Provide reasonable opt-out procedure // Sender must have direct and recent association with recipient

- If by requesting any Content or accessing a service, the consumer so doing is automatically placed on a distribution list that will continuously or periodically send that consumer further related or unrelated communications from that Content provider or any other Content provider or advertiser, then the T&C text must explicitly specify in the T&C that updates will be sent until cancelled. *[Note that v3.2 of the Code of Conduct specifies that the sender must have a "Direct & Recent" association with the recipient].*

Best Practice Suggestion

Display text: "Updates sent until cancelled"

- 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.
- The sender to a distribution list must indicate the cost and T&C of access to a service in each and every communication, even the receiver was previously a user of that service. No assumption as to the knowledge of the recipient in respect of the costs and T&C of a service must be made for users who had previously used the service.
- If using SMS as the Access Channel and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, must indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and may not be more than 120 seconds if using IVR or any other voice-based system as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- **Opt-Out:** Any further communication with a consumer in a distribution list must contain a relatively easy and unambiguous method for immediately opting-out of any further communications from that distribution list:
 - **Fax:** No premium rated fax lines [eg 0866 fax-2-email type numbers] may be used for the mandatory opt-out procedure.
 - **SMS:** The total cost of opting-out from any distribution list using a premium rated SMSs Access Channel may not exceed R1 total cost
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]
 - [See also v3.2 of "**WASPA CODE OF CONDUCT**"]
 - **IVR (or any other time-based method):** Where applicable, any IVR systems used for any opt-out procedure must be designed so that a reasonable user will not need to exceed 120 seconds (from the start of the IVR call or time-based method) for the entire opt-out process.
 - [See also "**PRICING**" below]
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

6.3.9 **FAILED REQUESTS:** Indicate If Failed Requests Billed

- If for any reason the service bills for incorrect, failed, or unsuccessful requests, then the T&C text must display this (if applicable)

Best Practice Suggestion:

Display text: "Errors billed"

6.3.10 **LIVE SERVICES:** [In relation to live Contact-type services only] Advertisements may not use the word 'live' to describe systems where a recording or an automated system is used in place of a real-time interaction with a human

- No advertisement may be designed or worded in a manner that may create an expectation by a reasonable person that there is real-time or near-real time communication with a human offered as part of the service, where in fact there is no live real-time or near-real-time interaction whatsoever with a human available as part of that advertised service, or where the real time interaction with the human does not constitute the essence of the service

Eg Recordings that simulate "eavesdropping" on purported conversations between two or more persons do not constitute 'live services'.

- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.
 - [See "**AVAILABILITY OF CONTENT/SERVICES**" above]

6.3.11 **NETWORK COMPATIBILITY:** Indicate If Services Are Network-dependent // Indicate if subscription-type dependent

- There must be an clear indication in the advertisement detailing which mobile networks the user must have access to for fully access any Content and/or participate in the service offered
- If only contract-only or prepaid-only users have access to the service, this must be indicated

- 6.3.12 **PRICING:** Show component, bearer and total cost //
Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised

Overview:

The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.

Background:

Note that the term "Standard Rates Apply" as has in the past been used widely is, according to the definitions supplied by all three mobile networks, an **incorrect** description of IVR and PSMS, as a "**Standard Rate**" is only applicable to use of eg free bundled SMSs/Minutes. The original term was "VAS Standard Rates Apply" which was only applicable to IVR access, but which many over time **incorrectly** abbreviated to "Standard Rates" with purported applicability to for both IVR, PSMS, and Premium Rated USSD Access Channels.

Standard Rate: [see Also definition of Standard Rate in the Definition section]

A Standard Rate is a rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies. Thus, where free/bundled SMSs/Minutes cannot be utilized or where the tariff for an Access Channel differs from the in-bundle tariff for any user pursuant to the terms of conditions of the service agreement that user has with a mobile network operator, then term "**Standard Rate**" may not, from implementation of the Ad Rules, be used under those circumstances.

Instead, the following must be used:

For IVR Lines: "VAS Rates Apply. Free Minutes Do Not Apply"

Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".

Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) if the SMSs/Minutes are not available free or in a bundle.

(a) **Bearer Costs:**

If additional WAP/GPRS bearer charges may be incurred over and above any other Access Channel costs, the possibility thereof must be indicated.

eg "**2x R5 SMS = Total R10 + WAP Charges**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below]

(f) **IVR:**

- Any IVR system using a VAS rated Access Channel provided by or through a licensed mobile operator for access to any services or Content must be identified as such, along with a notice that free minutes will not apply.

- If the minimum amount of time the user is required to stay on the line to access the service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised service or Content must be indicated.
- The following is an example of component and total cost indications:

Examples:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reason:

- VAS rate nature of the phone number has not been disclosed
- Inability to use free minutes has not been disclosed
- Minimum amount of time to fully access service/Content has not been disclosed
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below for more detailed requirements]

(c) **USSD:**

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the potential for any additional costs associated with specific menu selections.
 - [See "**USSD ACCESS**" below]

(d) **SMS:**

- The cost of a single (or component) SMS used for access to a service must be indicated.
- If more than one SMS is required to access the service/Content, then the number of SMSs so required and their individual cost for access must be indicated. The total cost involved in accessing the full service based on the cumulative number of SMSs required must also be disclosed.

For example, if a number of SMSs are required for registration before full access and use of an advertised service becomes available to a user, then the possibility thereof and then the number of required SMSs must be indicated.

Eg "2x R5 SMS = Total R10 + WAP Charges"

Eg "3 x R5 SMSs required for service registration. Total cost R15"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below for detailed requirements]

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3a (where NOT part of a subscription service):

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3b (where part of a subscription service that eg has a minimum of 5 weeks subscription):

Correct: "Subscription Service. R5/week for 6 weeks. Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

6.3.13 **SUBSCRIPTION SERVICES:** Show Total Subscription Charge, Frequency of Charge, any bearer charges and any additional charge/s

(i) **Must Use The Words "Subscription Service"**

If the Content provider is providing a continuous, subscription-like or subscription-based service, then the words "Subscription Service" must be prominently displayed at the top section of the advertisement as well as at each Content or service section in the advertisement where various subscription types are displayed.

No acronym, letter (eg "S"), number, abbreviation (eg "Subs"), icon, or any other mark may be used as an alternative to the words "Subscription Service" anywhere in the advertisement when that Content is only available at all and/or at a particular cost as part of a subscription service.

(ii) **Must Indicate Charge/s:**

The advertisement must indicate in the font size, position and type as indicated:

- (a) The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- (b) The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- (c) Whether, in addition to the periodic subscription charges in (a) & (b) above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement. **[See (iii) below]**

This indication must include the potential and cost of any (additional) bearer charges.

(iii) **Must Indicate Cost Of Any (Additional) Per-Content Access**

If in addition to a periodic subscription charge the consumer could additionally be charged on a per-access basis for access to any particular service, Content or class of Content on the advertisement within the subscription period and terms, then the advertiser must make it clear to the consumer that access this Content or service will, over and above the periodic subscription cost, incur additional charges per Content or service access.

The periodic subscription cost, the frequency of the periodic charge, and where applicable, the additional access cost must all be displayed clearly and TOGETHER, in a position immediately above, below, or to the side of the Content, service, or class of Content. There must in particular be an indication whether bearer charges are included or not in the access cost.

- [See also '**BEARER CHARGES**' above)

(iv) **Must Differentiate Clearly Between Multiple Subscription Types**

If in any advertisement there may exist the possibility to subscribe to a number of individual subscription services which would ordinarily each carry a separate but additional subscription charge and associated charging frequency or additional per-Content access charge, then this possibility of the consumer being charged at multiple prices and charging frequency must be clearly indicated.

(v) **Must clearly Differentiate Between Non-subscription and subscription Types if both available in the same advertisement:**

Taking into account the provisions in section 11.1.2 in v3.2 of the WASPA Code Of Conduct on relating to an "**independent transaction**," if an advertisement has components to it that promote

(a) Content that is ordinarily made available to a consumer on payment of a once-off payment for that individual Content without the need to subscribe to that service,

AND

(b) Content that will be available at all, and/or at a particular price or even free only if the consumer subscribes to a subscription service,

then this distinction between the availability of non-subscription and subscription charging must be made clear by unambiguously demarcating in separate sections (and not just wording) the non-subscription portion from the subscription service portion or Content in the advertisement.

The words "Subscription Service" as well as the total charges and any additional access charges and charge frequency for that subscription service must be clearly indicated in the form specified.

ADDITIONAL BACKGROUND NOTES TO SUBSCRIPTION SERVICES:

Any request to be subscribed to a subscription service must be an **INDEPENDENT TRANSACTION** (see s11.1.2 of v3.2 of the WASPA Code of Conduct). Hence subscribers cannot be subscribed to a subscription service through having requested specific Content, or having being made to believe by a (practically) confusing ad design that they are requesting Content on a once-off (non-subscription) basis.

Confusion by consumers may arise in cases where a single advert may indicate the availability of Content to users (usually on a network that has not enabled subscription services) on a once-off basis, as well as on a subscription basis (to users on a network that has enabled subscription services), even though the subscription and non-subscription services may be on a different number range.

If confusing, this may create the scenario where the consumer lacks a specific intention of subscribing to a service (s11.1.2).

To avoid this scenario, advertisers must avoid advertising material designs where subscription service access can be confused with non-subscription services for the same or same type of Content in the same ad. Unless this distinction is made clear, the non-subscription portion of an ad which has as its center the requesting of specific Content (on a once-off basis to users on a network that does not have subscription services) may have the effect of (possibly inadvertently) **breaching** the 'independent transaction' criteria of the subscription portion of the code of conduct (See also s11.1.4 of v3.2 of the Code of Conduct)

6.3.14 **TECHNICAL CONDITIONS FOR ACCESS:** Indicate which users and/or phones can access services

- The display text must indicate whether the service can only be accessed by:

- (u) Phones with any particular technical specification(s)
- (v) Any particular time period [See also "**AVAILABILITY OF SERVICES/CONTENT**" above]
- (w) Any particular bearers [See also "**BEARER CHARGES**" above]
- (x) Any particular mobile operator networks [See also "**NETWORK COMPATIBILITY**" above]
- (y) Any particular mobile operator subscription types [See "also **NETWORK COMPATIBILITY**" above]

However, because there are numerous phones on the market each with different technical specifications, it may be impractical to list all these handsets in media which is non-permanent (eg TV/Radio). These must however be shown in permanent media (eg Web/Print)

INDICATE IF SERVICE IS HANDSET-RESTRICTED

[Note: *Best efforts at handset compatibility if restricted to more than 30 handset models*]

- *Nokia Series60 handset required* **or**
- *Java Handset Required* **or**
- *Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS)* **or**
- *Only available for Compatible Handsets. For List, see xyz.co.za/handsets* **or**
- *Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).*

6.3.15 **TOTAL ACCESS REQUIREMENTS:** WAP/GPRS: Indicate if WAP/GPRS require // For SMSs:

Indicate Number Of SMSs required for full access to Content or for registration to allow full use of the advertised service. // For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper // Include possibility of bearer charges if applicable.

o [See also "**PRICING**" above]

- WAP/GPRS

Indicate if WAP and/or GPRS is required for full access to the Content/services.

- IVR:

If an IVR system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for access to any services or Content, and the minimum time a reasonable user would require for minimum access to the advertised service or Content **exceeds 60 seconds**, then the minimum amount of time required for this minimum access to the Content or service must be indicated.

For example, if a Contact-type service, Competition line, or similar service exceeds 60 seconds in total length (from the start of the call) by requiring the user to first listen to for example **2 minutes** (120 seconds) of recorded audio before they can access the actual person, service or facility otherwise so indicated by the wording or design of the advertisement, then this minimum 'waiting' time must be also indicated.

EXAMPLE:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply.
Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reasons:

- No Indication Of VAS Rate nature of 08x access number.
- No Indication that Free Minutes are not available for access to the service.
- (If over 60 seconds waiting time), No minimum call time to access service proper indicated.

- **SMS:**

If more than one SMS is required to access the service/Content (and if additional bearer charges may apply), then indicate:

- (q) The number of SMSs required **AND**
- (r) The individual component cost for access must be indicated **AND**
- (s) The total cost involved in accessing the full service. **AND**
- (t) Any additional bearer or Content/service charges must be indicated.

For example, if a number of SMSs are required for before full access and use of an advertised service becomes available to a user, then the possibility thereof and if so, the minimum number of required SMSs must be indicated in the T&C.

Eg "2x R5 SMS = Total R10 + WAP Charges. Premium Rates. No Free SMSs"

Eg "3 x R5 SMSs required for registration. Total cost R15. Premium Rates. Free SMSs Do Not Apply."

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3a (where NOT part of a subscription service):**

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3b (where part of a subscription service that has eg a minimum of 6 weeks subscription):**

Correct: "Subscription Service. R5/week for 6 weeks.

Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

6.3.16 **USSD ACCESS:** Show Initial USSD Access Charges and Minimum Access times (if over 90 seconds)

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

Best Practice Suggestion:

Display Text: "Initial access cost 20 cents/20 seconds. Minimum 120 seconds."

6.3.17 **VAS/PREMIUM RATES:** Indicate That Free Minutes/SMSs Do Not Apply

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

6.3.18 **VAT:** All prices must include VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

Best Practice Suggestion:

Display Text: "All prices include VAT."

6.4 INFORMATION REQUIRED FOR DISCLOSURE

6.4.1 Where Applicable, The Following Is Mandatory Information That Must Be Displayed In Any Advertisement In Any Media Where An Access Channel Is Advertised:

1. PROVIDE CLEAR INDICATION OF TOTAL COST

- R5/SMS. Premium rates. Free SMSs Do Not Apply.
- R20/game. Premium rates. Free SMSs Do Not Apply. WAP required.
- Two SMSs Required at R--- each. Premium rates. Free SMSs Do Not Apply.
- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply.

2. PROVIDE CLEAR INDICATION OF MINIMUM REQUIREMENTS TO FULLY ACCESS SERVICE/CONTENT

- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply. Minimum 3 minutes.
- Seven SMSs at R--- each for registration. Premium rates. Free SMSs Do Not Apply.

3. INDICATE IF SUBSCRIPTION SERVICE, AND NATURE THEREOF - INCLUDING PRICE AND (MINIMUM) FREQUENCY

- This is a subscription service. You will be automatically charged R--- every week until you unsubscribe.
- This is a subscription service. You will be charged R-- per week until you unsubscribe, plus R—per wallpaper. WAP required.”

4. INDICATE WEB SITE ADDRESS IF REFERRING TO ADDITIONAL T&CS VIA WEB

- Eg xyz.co.za/tc

5. INDICATE CUSTOMER CARE ACCESS NUMBER

- Helpline 0xx-xxx-xxxx for
- For Help, SMS to 3xxxx (R1/SMS)

6. IDENTIFICATION OF WHO IS PROVIDING THE ADVERTISED SERVICE

- NiceCompany (Pty) Ltd

7. INDICATE IF ANY ACCESS REQUIREMENTS

- WAP Required
- GPRS Required
- WAP/GPRS required

8. INDICATE IF SERVICE IS HANDSET-RESTRICTED [Note: Best efforts at handset compatibility if restricted to more than 30 handset models]

- Nokia Series60 handset required **or**
- Java Handset Required **or**
- Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS) **or**

- *Only available for Compatible Handsets. For List, see xyz.co.za/handsets*
or
- *Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).*

9. INDICATE IF FAILED REQUESTS OR ERRORS CHARGED

- *Errors charged*
- *Failed Requests Billed*

10.INDICATE NETWORK / ACCESS RESTRICTIONS (IF ANY)

- *XYZ Network contract subscribers only*

11.INDICATE IF ACCESS TO SERVICE AUTOMATICALLY PLACES USER ON A DISTRIBUTION LIST. INDICATE METHOD & COST OF UNSUBSCRIBING.

- *We reserve right to contact you. Updates sent until cancelled. Send 'unsubscribe' to 3xxxx (R1)*
- *Updates sent until cancelled. Send 'stop' to 3xxxx (R1)*

12.INDICATE CLOSING DATE AND T&Cs OF COMPETITIONS

- *Competition closes 1 January 2006. Winners will be notified by SMS. You must be over 18 to enter*

13.INDICATE IF ANY AVAILABILITY RESTRICTIONS

- *Live chat unavailable 01h00-07h00*

14.INDICATE THAT ALL PRICES INCLUDE VAT

- *All Prices include VAT.*

15.INDICATE IF ANY AGE RESTRICTIONS

- *Adults only. You may be asked to verify your age.*

16.Indicate that consent to use service must first be required by bill payer

- *Obtain bill payers consent before using this service*

7 OUTDOOR MEDIA

7.1 SCOPE

Applies to **all** outdoor media, including but not limited to large outdoor billboards, moving media, TV-type displays placed indoor and outdoor, cutouts, poster sized billboards or smaller indoor billboards visible to the general public where Access Channels are displayed.

7.2 DISPLAY RULES FOR COST AND T&C INFORMATION

7.2.1 BROADOVERVIEW

TEXT SHOWING FULL COST AND T&C IS REQUIRED

- For each unique access number, the full and final cost of the access must be displayed **immediately** below, or above, or adjacent to the unique access number in a font size and font type that is easily visible and readable. All access cost and T&C information must be placed horizontally
- The display text must indicate the TOTAL cost involved in obtaining the full service, and if applicable the number of SMSs and their individual cost, required for full access to content/services. If over 60 seconds, the minimum IVR/USSD access times for full access to an advertised service must be specified.
- The pricing and T&C text must not be buried/obscured by other text information that may be displayed as part of the ad.
- The cost and T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C
- Access cost text must be of a size that is at least **70%** of the largest access number on the outdoor media. The access cost text must be in a non-serif font
- T&C text must be 50% of the largest access number on the outdoor media. The T&C cost text must be in a non-serif font

SUBSCRIPTION SERVICES

Any advertisement that has a subscription service component must include:

- (a) the periodic subscription charge, **AND**
- (b) the charging frequency, **AND**
- (c) Any additional premium-rated or other additional charges that might be applicable to access particular content or service

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.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

7.2.2 COST OF ACCESS DISPLAY RULES

7.2.2.1 **Formatting Of Cost Text**

The size of the text showing the cost of access must be **70%** of the largest-sized version of the access number displayed on the advertisement. The access cost text must be in a non-serif font. All access cost information must be placed horizontally

7.2.2.2 **Position of Cost Text:**

For each unique access number, the full and final cost of the access must be displayed immediately below, or above, or adjacent to the unique access number or Content access code

If multiple offers are made in the same advertisement and the cost differs with each offering, each offering must clearly show the individual costs, again immediately below, or above, or adjacent to the unique access number

7.2.3 **T&C DISPLAY TEXT RULES**

7.2.3.1 **Formatting Criteria For T&C Text:**

- The T&C text must be **50% of the largest-sized version of the access number displayed** on the advertisement. The T&C text must be in a non-serif font.
- The T&C text must be displayed on the same media as the unique access number it applies to.
- The pricing and T&C text must not be positioned or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad.
- The cost and T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C
- All T&C information must be placed horizontally

Illustrative Pricing Example:

Correct

Content-Header	34xxx R5/SMS + WAP Charges
Content Content Content Content Content Content	
T&C - T&C - T&C - T&C - T&C - T&C	

Incorrect

Content-Header	34xxx
Content Content Content Content Content Content	
R5/SMS + WAP Charges T&C - T&C - T&C - T&C	

7.3 GENERAL TERMS

7.3.1 **ADULT SERVICES [See also Age-Restricted Services]**: If the ads used to advertise any Adult Content *themselves* contain Adult Content, these ads are restricted to Adult Media // Ads referring to any Adult Content are restricted under certain conditions // An age verification system must be used for access to any Adult Content. // A warning that users must be 18 years or older to use a service must be shown

- **Advertisements Containing Adult Content (Images/Words/Sounds):**

In respect of the format and design of advertisements which are used to advertise Adult Content Services, if the advertisements *themselves* contain visual images and/or words or phrases that constitute or depict sexual conduct as is defined in the Films and Publications Act 65 of 1996, then these advertisements may only be advertised in Adult media. This restriction applies even if 'stars,' black strips or other attempts at direct visual blocking or disguising of any sexual conduct or explicit nudity are used in an advertisement.

- **Advertisements With References To Adult Content:**

In respect of an advertisement that contains references to Content Services, where that Content constitutes or depicts sexual conduct as defined in the Films and Publications Act 65, **but** where the advertisement itself for that Content does not constitute or depict sexual conduct as defined in the Films and Publications Act 65, then advertisements that so contain references to the (explicit) Content *may* be placed in any media, provided that:

- (a) An Adult Verification System is in place for access to that Content or service, **AND THAT**
- (b) The format, placement and design of the advertisement so referring to the (explicit) Content
 - is in keeping with the general nature, tone and theme of that particular media and is not calculated to offend the audience having access to that media, **AND**
 - abides by any advertising rules set by the owner or controller of that particular media, **AND**
 - conforms to any rulings issued by the ASASA in respect of that particular type of advertisement and media, **AND**
 - conforms to any similar rulings by the WASPA Adjudicator or WASPA Appeals Panel in respect of that particular type of advertisement and media, **AND WHICH**
 - conforms to any particular rules set by any mobile operator in respect of use of that Access Channel

- **WATERSHED HOURS:**

For broadcast media (eg TV/Radio) where a policy of watershed hours is implemented, advertisements containing sexually explicit words, images, or sounds:

(a) may only be broadcast during the watershed hours so defined by a licensed broadcaster,

AND

(b) may not contain any sexual Content or nudity in excess of that displayed within the programme the advertisement is placed in. For example, if no nudity is displayed within the programme, then no nudity (whether depicted through animation or otherwise) is allowed in the advertisement.

IMPORTANT NOTE:

It is entirely the responsibility of those placing an advertisement to determine which laws apply to its service as well as the extent or not of the Adult nature of the programme advertised in.

Advertisers must thus contact the relevant broadcaster to determine the classification/rating of any programme before placing their advertisements.

- Any advertisement that has reference to Content or services that are legally restricted to use only by Adults must indicate that it is for Adults only and/or that verification of the user's age may be required.

This indication must be placed both in the T&C and in the body of advertisement where the service or Content is advertised.

- No abbreviations to indicate the Adult restriction are allowed (eg '18' or '18+' may not be used).

Rather, text indicating the Adult restriction should use the following terminology:

“Adults Only. Verification of your age may be required.” 

“You must be over 18 to view images or hear sounds. Verification of your age may be required.” 

“You must be over 18 to enter this competition. Verification of your age may be required.”


7.3.2 **Age-Restricted Services** Indicate If Age-Restricted

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services - or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.

Examples of Age-Restricted Services (non-exhaustive list):

- Gambling Services
 - Contact-type services where Children may potentially come into contact with Adults masquerading as Children
 - Adult Content
 - Dating Services
 - Content that does not necessarily fit the definition of Adult Content, but which may contain images, audio or text that is obscene or otherwise unsuitable for access and consumption by Children
 - Competitions with Age Restrictions
- No abbreviations to indicate the Age Restriction are allowed (eg '18' or '18+' only may not be used).

Rather, text indicating the Age Restriction should use the following terminology:

“Adults Only. Verification of your age may be required.” 

“You must be over 18 to view images or hear sounds. Verification of your age may be required.” 

“You must be over 18 to enter this competition. Verification of your age may be required.”

7.3.3 **AVAILABILITY OF CONTENT/SERVICES**: Indicate any restrictions

If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Example: "Live chat not available between 01h00 and 07h00"

7.3.4 **BEARER REQUIREMENTS & CHARGES:** Indicate need for and possibility of additional bearer charges eg WAP

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text in both the body of the advertisement as well as in the T&C must indicate that additional bearer charges may apply.

eg "R10/Game + WAP charges"

- [See also 'PRICING' below]
- [See also 'TOTAL ACCESS REQUIREMENTS' below]

7.3.5 **COMPETITIONS:** Indicate If Prize Award is Conditional // Must have and show a closing date If Conditional

(**Note:** This section is not meant to be an exhaustive overview of any possible permutation of competition types. The general guiding principles remain however)

- Promotional material must clearly state any information which is likely to affect a decision to participate, including:
 - the closing date;
 - any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
 - any significant age, geographic, or other eligibility restrictions;
 - any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.
 - any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize

- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.

- Adverts for Competitions must show a specific closing date, except where there are instant prize-winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.
- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text
- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.
- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.
- All correct entries must have the same chance of winning.

Best Practice Suggestion For Instant Notification Of Prize Winners With no minimum requirements entry conditions:

Display text: E.g. "Prizes will only be awarded after 1 Jan 200x"

Display text: E.g. "Competition closes after 1,000 entries received".

Display text: E.g. "Every 50th SMS received wins a prize. Prizes awarded after 1 December 2006."

Best Practice Suggestion For Instant Prize Competitions With Minimum Entry Requirements:

Display text: E.g. "Competition begins after 1,000 entries received. Closes 1 January 2007".

Display text: E.g. "Competition begins after 1,000 entries received. Every 50th SMS received thereafter wins a prize. Prizes awarded after 1 December 2006."

- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.
- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

7.3.6 **CONTACT DETAILS:** Provide web site address AND helpline number/shortcode // Contact details must be displayed as part of the T&C details.

- Advertisers must include a helpline number or a working web site address that has direct applicability and linkage to the advertiser
- If an IVR or SMS system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for contacting the advertiser or as a helpline access, then the fact that this access number is Premium Rated or uses VAS rates must be indicated next to the access number.

- Eg "**Helpline 08x-xxx-xxxx. VAS Rates. Free Minutes Do Not Apply.**

- Note the general rule in v3.2 of the WASPA Code Of Conduct that a Premium Rated SMS number used as a contact number for the advertiser, or as a helpline, or for unsubscribing from a service **may not exceed R1 in total.**

- **Eg : "SMS 'Help' to 31xxx. R1/SMS. Premium Rates. Free SMSs Do Not Apply."**

7.3.7 **CONTACT-TYPE SERVICES:** Indicate If Any restrictions apply to access or use // Indicate if multiple registration or other steps required before full use of advertised service is possible // Indicate Adult and/or Age-Restricted nature of the service if advertised as having sexual content or ordinarily unsuitable for access and use by children // Use AVS if service has Adult Content as defined and/or if Age-Restricted // Indicate source and unsubscribe facility if no contact for more than 10 days

- If a Contact-type service is advertised as containing sexual content or is advertised as having content that, ordinarily, would be unsuitable for children, then advertisements for that service must indicate that it is for use by Adults only.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- If a Contact-type service is advertised as containing sexual content, then an **Adult Verification System** must be used for registration of new users to that Contact-type service.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- Advertisements for any interactive chat, flirt, dating or similar Contact-type services (whether anonymous or not) must indicate whether any restrictions apply to its full use. Eg Time of day, age.
 - [See also "**AVAILABILITY OF CONTENT/SERVICES**" above]
 - [See also Definition of "**ADULT**" above]

- If a user must first successfully complete multiple steps requiring multiple communications to the service before they are able to fully access or use the service as advertised, then this must be specified in the advertisement.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

- If using SMS as the Access Channel for a Contact-type service, each request for a user to respond to a message sent to a user as part of that service must indicate the price of the reply

if the price at any stage of the communication, differs at all from the initial advertised service price.

- If using SMS as the Access Channel for a Contact-type service, and where there has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and no more than 120 seconds if using IVR or any other time-based method as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- If a Contact-type service using IVR as the Access Channel requires the user to first listen to a (recorded) audio before they can access the actual person, service or facility otherwise so indicated or suggested by the wording or design of the advertisement, and this waiting time **exceeds 60 seconds** from the start of the IVR call, then the minimum 'waiting' time must be also indicated.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below"]

7.3.8 **DISTRIBUTION LISTS**: Indicate If Consumer Automatically Placed On List. // No sexual or sexually suggestive Content in list if the list recipient does not request or expect it. // Provide reasonable opt-out procedure // Sender must have direct and recent association with recipient

- If by requesting any Content or accessing a service, the consumer so doing is automatically placed on a distribution list that will continuously or periodically send that consumer further related or unrelated communications from that Content provider or any other Content provider or advertiser, then the T&C text must explicitly specify in the T&C that updates will be sent until cancelled. *[Note that v3.2 of the Code of Conduct specifies that the sender must have a "Direct & Recent" association with the recipient].*

Best Practice Suggestion

Display text: "Updates sent until cancelled"

- 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.
- The sender to a distribution list must indicate the cost and T&C of access to a service in each and every communication, even the receiver was previously a user of that service. No assumption as to the knowledge of the recipient in respect of the costs and T&C of a service must be made for users who had previously used the service.
- If using SMS as the Access Channel and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, must indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and may not be more than 120 seconds if using IVR or any other voice-based system as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- **Opt-Out:** Any further communication with a consumer in a distribution list must contain a relatively easy and unambiguous method for immediately opting-out of any further communications from that distribution list:
 - **Fax:** No premium rated fax lines [eg 0866 fax-2-email type numbers] may be used for the mandatory opt-out procedure.
 - **SMS:** The total cost of opting-out from any distribution list using a premium rated SMSs Access Channel may not exceed R1 total cost
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]
 - [See also v3.2 of "**WASPA CODE OF CONDUCT**"]
 - **IVR (or any other time-based method):** Where applicable, any IVR systems used for any opt-out procedure must be designed so that a reasonable user will not need to exceed 120 seconds (from the start of the IVR call or time-based method) for the entire opt-out process.
 - [See also "**PRICING**" below]
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

7.3.9 **FAILED REQUESTS:** Indicate If Failed Requests Billed

- If for any reason the service bills for incorrect, failed, or unsuccessful requests, then the T&C text must display this (if applicable)

Best Practice Suggestion:

Display text: "Errors billed"

7.3.10 **LIVE SERVICES:** [In relation to live Contact-type services only] Advertisements may not use the word 'live' to describe systems where a recording or an automated system is used in place of a real-time interaction with a human

- No advertisement may be designed or worded in a manner that may create an expectation by a reasonable person that there is real-time or near-real time communication with a human offered as part of the service, where in fact there is no live real-time or near-real-time interaction whatsoever with a human available as part of that advertised service, or where the real time interaction with the human does not constitute the essence of the service

Eg Recordings that simulate "eavesdropping" on purported conversations between two or more persons do not constitute 'live services'.

- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.
 - [See "**AVAILABILITY OF CONTENT/SERVICES**" above]

7.3.11 **NETWORK COMPATIBILITY:** Indicate If Services Are Network-dependent // Indicate if subscription-type dependent

- There must be an clear indication in the advertisement detailing which mobile networks the user must have access to for fully access any Content and/or participate in the service offered
- If only contract-only or prepaid-only users have access to the service, this must be indicated

- 7.3.12 **PRICING:** Show component, bearer and total cost //
Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised

Overview:

The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.

Background:

Note that the term "Standard Rates Apply" as has in the past been used widely is, according to the definitions supplied by all three mobile networks, an **incorrect** description of IVR and PSMS, as a "**Standard Rate**" is only applicable to use of eg free bundled SMSs/Minutes. The original term was "VAS Standard Rates Apply" which was only applicable to IVR access, but which many over time **incorrectly** abbreviated to "Standard Rates" with purported applicability to for both IVR, PSMS, and Premium Rated USSD Access Channels.

Standard Rate: [see Also definition of Standard Rate in the Definition section]

A Standard Rate is a rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies. Thus, where free/bundled SMSs/Minutes cannot be utilized or where the tariff for an Access Channel differs from the in-bundle tariff for any user pursuant to the terms of conditions of the service agreement that user has with a mobile network operator, then term "**Standard Rate**" may not, from implementation of the Ad Rules, be used under those circumstances.

Instead, the following must be used:

For IVR Lines: "VAS Rates Apply. Free Minutes Do Not Apply"

Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".

Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) if the SMSs/Minutes are not available free or in a bundle.

(a) **Bearer Costs:**

If additional WAP/GPRS bearer charges may be incurred over and above any other Access Channel costs, the possibility thereof must be indicated.

eg "**2x R5 SMS = Total R10 + WAP Charges**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below]

(g) **IVR:**

- Any IVR system using a VAS rated Access Channel provided by or through a licensed mobile operator for access to any services or Content must be identified as such, along with a notice that free minutes will not apply.

- If the minimum amount of time the user is required to stay on the line to access the service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised service or Content must be indicated.
- The following is an example of component and total cost indications:

Examples:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reason:

- VAS rate nature of the phone number has not been disclosed
- Inability to use free minutes has not been disclosed
- Minimum amount of time to fully access service/Content has not been disclosed
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below for more detailed requirements]

(c) **USSD:**

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the potential for any additional costs associated with specific menu selections.
 - [See "**USSD ACCESS**" below]

(d) **SMS:**

- The cost of a single (or component) SMS used for access to a service must be indicated.
- If more than one SMS is required to access the service/Content, then the number of SMSs so required and their individual cost for access must be indicated. The total cost involved in accessing the full service based on the cumulative number of SMSs required must also be disclosed.

For example, if a number of SMSs are required for registration before full access and use of an advertised service becomes available to a user, then the possibility thereof and then the number of required SMSs must be indicated.

Eg "2x R5 SMS = Total R10 + WAP Charges"

Eg "3 x R5 SMSs required for service registration. Total cost R15"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below for detailed requirements]

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3a (where NOT part of a subscription service):

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3b (where part of a subscription service that eg has a minimum of 5 weeks subscription):

Correct: "Subscription Service. R5/week for 6 weeks. Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

7.3.13 **SUBSCRIPTION SERVICES:** Show Total Subscription Charge, Frequency of Charge, any bearer charges and any additional charge/s

(i) **Must Use The Words "Subscription Service"**

If the Content provider is providing a continuous, subscription-like or subscription-based service, then the words "Subscription Service" must be prominently displayed at the top section of the advertisement as well as at each Content or service section in the advertisement where various subscription types are displayed.

No acronym, letter (eg "S"), number, abbreviation (eg "Subs"), icon, or any other mark may be used as an alternative to the words "Subscription Service" anywhere in the advertisement when that Content is only available at all and/or at a particular cost as part of a subscription service.

(ii) **Must Indicate Charge/s:**

The advertisement must indicate in the font size, position and type as indicated:

- (a) The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- (b) The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- (c) Whether, in addition to the periodic subscription charges in (a) & (b) above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement. **[See (iii) below]**

This indication must include the potential and cost of any (additional) bearer charges.

(iii) **Must Indicate Cost Of Any (Additional) Per-Content Access**

If in addition to a periodic subscription charge the consumer could additionally be charged on a per-access basis for access to any particular service, Content or class of Content on the advertisement within the subscription period and terms, then the advertiser must make it clear to the consumer that access this Content or service will, over and above the periodic subscription cost, incur additional charges per Content or service access.

The periodic subscription cost, the frequency of the periodic charge, and where applicable, the additional access cost must all be displayed clearly and TOGETHER, in a position immediately above, below, or to the side of the Content, service, or class of Content. There must in particular be an indication whether bearer charges are included or not in the access cost.

- [See also '**BEARER CHARGES**' above)

(iv) **Must Differentiate Clearly Between Multiple Subscription Types**

If in any advertisement there may exist the possibility to subscribe to a number of individual subscription services which would ordinarily each carry a separate but additional subscription charge and associated charging frequency or additional per-Content access charge, then this possibility of the consumer being charged at multiple prices and charging frequency must be clearly indicated.

(v) **Must clearly Differentiate Between Non-subscription and subscription Types if both available in the same advertisement:**

Taking into account the provisions in section 11.1.2 in v3.2 of the WASPA Code Of Conduct on relating to an "**independent transaction**," if an advertisement has components to it that promote

(a) Content that is ordinarily made available to a consumer on payment of a once-off payment for that individual Content without the need to subscribe to that service,

AND

(b) Content that will be available at all, and/or at a particular price or even free only if the consumer subscribes to a subscription service,

then this distinction between the availability of non-subscription and subscription charging must be made clear by unambiguously demarcating in separate sections (and not just wording) the non-subscription portion from the subscription service portion or Content in the advertisement.

The words "Subscription Service" as well as the total charges and any additional access charges and charge frequency for that subscription service must be clearly indicated in the form specified.

ADDITIONAL BACKGROUND NOTES TO SUBSCRIPTION SERVICES:

Any request to be subscribed to a subscription service must be an **INDEPENDENT TRANSACTION** (see s11.1.2 of v3.2 of the WASPA Code of Conduct). Hence subscribers cannot be subscribed to a subscription service through having requested specific Content, or having being made to believe by a (practically) confusing ad design that they are requesting Content on a once-off (non-subscription) basis.

Confusion by consumers may arise in cases where a single advert may indicate the availability of Content to users (usually on a network that has not enabled subscription services) on a once-off basis, as well as on a subscription basis (to users on a network that has enabled subscription services), even though the subscription and non-subscription services may be on a different number range.

If confusing, this may create the scenario where the consumer lacks a specific intention of subscribing to a service (s11.1.2).

To avoid this scenario, advertisers must avoid advertising material designs where subscription service access can be confused with non-subscription services for the same or same type of Content in the same ad. Unless this distinction is made clear, the non-subscription portion of an ad which has as its center the requesting of specific Content (on a once-off basis to users on a network that does not have subscription services) may have the effect of (possibly inadvertently) **breaching** the 'independent transaction' criteria of the subscription portion of the code of conduct (See also s11.1.4 of v3.2 of the Code of Conduct)

7.3.14 **TECHNICAL CONDITIONS FOR ACCESS:** Indicate which users and/or phones can access services

- The display text must indicate whether the service can only be accessed by:

- (z) Phones with any particular technical specification(s)
- (aa) Any particular time period [See also "**AVAILABILITY OF SERVICES/CONTENT**" above]
- (bb) Any particular bearers [See also "**BEARER CHARGES**" above]
- (cc) Any particular mobile operator networks [See also "**NETWORK COMPATIBILITY**" above]
- (dd) Any particular mobile operator subscription types [See "also **NETWORK COMPATIBILITY**" above]

However, because there are numerous phones on the market each with different technical specifications, it may be impractical to list all these handsets in media which is non-permanent (eg TV/Radio). These must however be shown in permanent media (eg Web/Print)

INDICATE IF SERVICE IS HANDSET-RESTRICTED

[Note: *Best efforts at handset compatibility if restricted to more than 30 handset models*]

- *Nokia Series60 handset required* **or**
- *Java Handset Required* **or**
- *Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS)* **or**
- *Only available for Compatible Handsets. For List, see xyz.co.za/handsets* **or**
- *Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).*

7.3.15 **TOTAL ACCESS REQUIREMENTS:** WAP/GPRS: Indicate if WAP/GPRS require // For SMSs:

Indicate Number Of SMSs required for full access to Content or for registration to allow full use of the advertised service. // For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper // Include possibility of bearer charges if applicable.

o [See also "**PRICING**" above]

- WAP/GPRS

Indicate if WAP and/or GPRS is required for full access to the Content/services.

- IVR:

If an IVR system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for access to any services or Content, and the minimum time a reasonable user would require for minimum access to the advertised service or Content **exceeds 60 seconds**, then the minimum amount of time required for this minimum access to the Content or service must be indicated.

For example, if a Contact-type service, Competition line, or similar service exceeds 60 seconds in total length (from the start of the call) by requiring the user to first listen to for example **2 minutes** (120 seconds) of recorded audio before they can access the actual person, service or facility otherwise so indicated by the wording or design of the advertisement, then this minimum 'waiting' time must be also indicated.

EXAMPLE:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reasons:

- No Indication Of VAS Rate nature of 08x access number.
- No Indication that Free Minutes are not available for access to the service.
- (If over 60 seconds waiting time), No minimum call time to access service proper indicated.

- **SMS:**

If more than one SMS is required to access the service/Content (and if additional bearer charges may apply), then indicate:

- (u) The number of SMSs required **AND**
- (v) The individual component cost for access must be indicated **AND**
- (w) The total cost involved in accessing the full service. **AND**
- (x) Any additional bearer or Content/service charges must be indicated.

For example, if a number of SMSs are required for before full access and use of an advertised service becomes available to a user, then the possibility thereof and if so, the minimum number of required SMSs must be indicated in the T&C.

Eg "2x R5 SMS = Total R10 + WAP Charges. Premium Rates. No Free SMSs"

Eg "3 x R5 SMSs required for registration. Total cost R15. Premium Rates. Free SMSs Do Not Apply."

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3a (where NOT part of a subscription service):**

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3b (where part of a subscription service that has eg a minimum of 6 weeks subscription):**

Correct: "Subscription Service. R5/week for 6 weeks.
Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

7.3.16 **USSD ACCESS:** Show Initial USSD Access Charges and Minimum Access times (if over 90 seconds)

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

Best Practice Suggestion:

Display Text: "Initial access cost 20 cents/20 seconds. Minimum 120 seconds."

7.3.17 **VAS/PREMIUM RATES:** Indicate That Free Minutes/SMSs Do Not Apply

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

7.3.18 **VAT:** All prices must include VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

Best Practice Suggestion:

Display Text: "All prices include VAT."

7.4 INFORMATION REQUIRED FOR DISCLOSURE

7.4.1 Where Applicable, The Following Is Mandatory Information That Must Be Displayed In Any Advertisement In Any Media Where An Access Channel Is Advertised:

1. PROVIDE CLEAR INDICATION OF TOTAL COST

- R5/SMS. Premium rates. Free SMSs Do Not Apply.
- R20/game. Premium rates. Free SMSs Do Not Apply. WAP required.
- Two SMSs Required at R--- each. Premium rates. Free SMSs Do Not Apply.
- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply.

2. PROVIDE CLEAR INDICATION OF MINIMUM REQUIREMENTS TO FULLY ACCESS SERVICE/CONTENT

- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply. Minimum 3 minutes.
- Seven SMSs at R--- each for registration. Premium rates. Free SMSs Do Not Apply.

3. INDICATE IF SUBSCRIPTION SERVICE, AND NATURE THEREOF - INCLUDING PRICE AND (MINIMUM) FREQUENCY

- This is a subscription service. You will be automatically charged R--- every week until you unsubscribe.
- This is a subscription service. You will be charged R-- per week until you unsubscribe, plus R—per wallpaper. WAP required.”

4. INDICATE WEB SITE ADDRESS IF REFERRING TO ADDITIONAL T&CS VIA WEB

- Eg xyz.co.za/tc

5. INDICATE CUSTOMER CARE ACCESS NUMBER

- Helpline 0xx-xxx-xxxx for
- For Help, SMS to 3xxxx (R1/SMS)

6. IDENTIFICATION OF WHO IS PROVIDING THE ADVERTISED SERVICE

- NiceCompany (Pty) Ltd

7. INDICATE IF ANY ACCESS REQUIREMENTS

- WAP Required
- GPRS Required
- WAP/GPRS required

8. INDICATE IF SERVICE IS HANDSET-RESTRICTED [Note: Best efforts at handset compatibility if restricted to more than 30 handset models]

- Nokia Series60 handset required **or**
- Java Handset Required **or**
- Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS) **or**

- Only available for Compatible Handsets. For List, see xyz.co.za/handsets
or
- Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).

9. INDICATE IF FAILED REQUESTS OR ERRORS CHARGED

- Errors charged
- Failed Requests Billed

10.INDICATE NETWORK / ACCESS RESTRICTIONS (IF ANY)

- XYZ Network contract subscribers only

11.INDICATE IF ACCESS TO SERVICE AUTOMATICALLY PLACES USER ON A DISTRIBUTION LIST. INDICATE METHOD & COST OF UNSUBSCRIBING.

- We reserve right to contact you. Updates sent until cancelled. Send 'unsubscribe' to 3xxxx (R1)
- Updates sent until cancelled. Send 'stop' to 3xxxx (R1)

12.INDICATE CLOSING DATE AND T&Cs OF COMPETITIONS

- Competition closes 1 January 2006. Winners will be notified by SMS. You must be over 18 to enter

13.INDICATE IF ANY AVAILABILITY RESTRICTIONS

- Live chat unavailable 01h00-07h00

14.INDICATE THAT ALL PRICES INCLUDE VAT

- All Prices include VAT.

15.INDICATE IF ANY AGE RESTRICTIONS

- Adults only. You may be asked to verify your age.

16.Indicate that consent to use service must first be required by bill payer

- Obtain bill payers consent before using this service

8 BELOW-THE-LINE MARKETING & PROMOTIONAL MATERIAL:

8.1 SCOPE

Applies to all Below-The-Line marketing material visible to the general public where Access Channels are displayed.

Some examples include, but are not limited to:

- Promotional Flyers/Leaflets
- CD's
- Flash Drives
- Promotional Stickers
- Scratch cards
- Business-card sized leaflets
- Small Z-cards
- Promotional materials and products, including promotional materials printed on/displayed on any FMCG products. e.g. executive gifts, cool drink tins, beer cans, bottle tops, wrappers, boxes etc

(NOTE: this is not an inclusive list. **Any** Below-The-Line promotional material is covered)

8.2 **DISPLAY RULES FOR COST & T&C INFORMATION**

8.2.1 Broad Overview

TEXT SHOWING FULL COST AND T&C IS REQUIRED

- The Full Cost and T&C must be displayed **on all media components associated with a particular content or service**. For example, if a loose campaign leaflet is placed within a magazine or booklet, and both the leaflet and magazine/booklet advertise the identical campaign, then both the leaflet and the magazine/booklet must (independently and identically) show the same Access Cost and T&C details for that identical campaign.
- If multiple offers are made on the same advertisement and the cost and T&C differ with each offering, each offering must show the individual costs and T&C separately and clearly.
- If the access number is designed or has the ability to be torn off or detached from the promotional text and used independently, Access Cost information must also be displayed on both the remaining and detachable portions.
- For each unique access number, the full and final cost of the access must be displayed **immediately** below, or above, or adjacent to the unique access number or content access code in a font size and font type that is easily visible and readable. All access cost and T&C information must be placed horizontally
- The display text must indicate the TOTAL cost involved in obtaining the full service, as well as the number of, for example SMSs or access times, and their individual cost, required for full access (if applicable).
- The pricing and T&C text must not be obscured by other text information that may be displayed as part of the ad. The access cost and T&C information must be placed horizontally.
- The cost and T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C
- The Access cost text must be in **11 point font size**, using a non-serif font. [This is 11 point Arial Font]
- The **T&C** text must be in **9 point font size** using a non-serif font [This is 9 point Arial Font]

SUBSCRIPTION SERVICES

Any advertisement that has a subscription service component must include:

- (a) the periodic subscription charge, AND
- (b) the charging frequency, AND
- (c) Any additional premium-rated or other additional charges that might be applicable to access particular content or services.

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.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

8.2.1 **COST OF ACCESS & T&C DISPLAY RULES**

8.2.1.1 **Formatting Of Cost Text**

- The size of the text showing the cost of access must be in **11 point font size**

This is 11 point Arial Font

- The access cost text must be in a non-serif font, preferably 'Arial' font.
- All access cost information must be placed horizontally

8.2.1.2 **Formatting of the T&C Text**

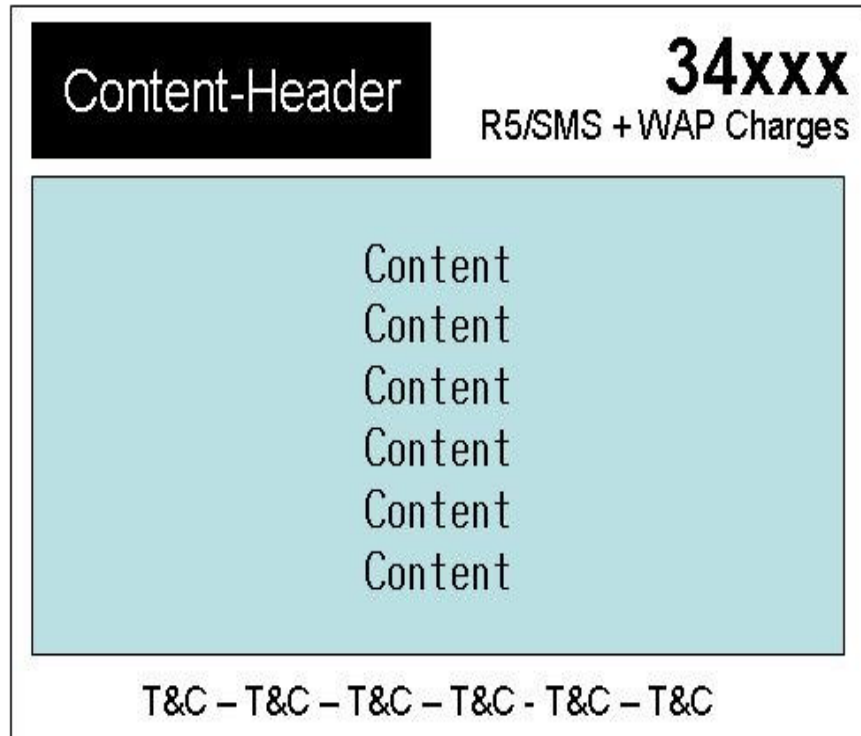
- The size of the text showing the T&C must be in **9 point font size**
This is 9 point Arial Font
- The T&C cost text must be in a non-serif font, preferably 'Arial' font
- All T&C information must be placed horizontally

8.2.1.3 **Position Of The Text Showing Access Cost and T&C**

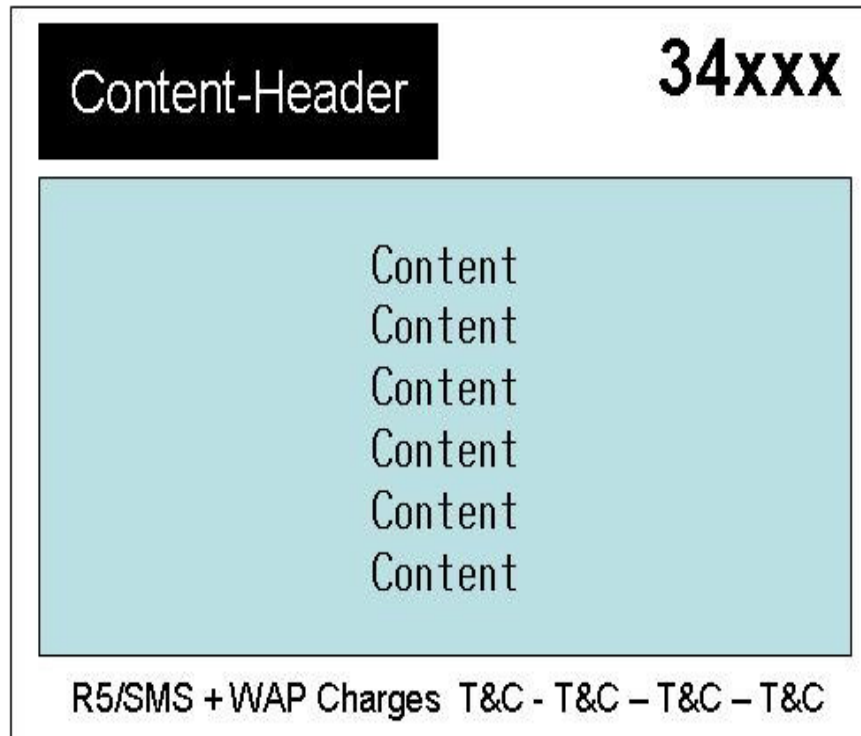
- For each unique access number, the full and final cost of the access must be displayed **immediately below, or above, or adjacent to the unique access number** in a non-serif font.
- This T&C text must be placed close as possible to the unique access number.
- If multiple offers are made on the same advertisement and the cost and T&C differ with each offering, each offering must show the cost & T&C separately and clearly.
- If the access number has the ability to be torn off or detached from the promotional text and used independently, pricing information must also be displayed on both the remaining and detachable portions.

Illustrative Text:

Correct



Incorrect



8.3 GENERAL TERMS

8.3.1 **ADULT SERVICES [See also Age-Restricted Services]**: If the ads used to advertise any Adult Content *themselves* contain Adult Content, these ads are restricted to Adult Media // Ads referring to any Adult Content are restricted under certain conditions // An age verification system must be used for access to any Adult Content. // A warning that users must be 18 years or older to use a service must be shown

- **Advertisements Containing Adult Content (Images/Words/Sounds):**

In respect of the format and design of advertisements which are used to advertise Adult Content Services, if the advertisements *themselves* contain visual images and/or words or phrases that constitute or depict sexual conduct as is defined in the Films and Publications Act 65 of 1996, then these advertisements may only be advertised in Adult media. This restriction applies even if 'stars,' black strips or other attempts at direct visual blocking or disguising of any sexual conduct or explicit nudity are used in an advertisement.

- **Advertisements With References To Adult Content:**

In respect of an advertisement that contains references to Content Services, where that Content constitutes or depicts sexual conduct as defined in the Films and Publications Act 65, **but** where the advertisement itself for that Content does not constitute or depict sexual conduct as defined in the Films and Publications Act 65, then advertisements that so contain references to the (explicit) Content *may* be placed in any media, provided that:

- (a) An Adult Verification System is in place for access to that Content or service, **AND THAT**
- (b) The format, placement and design of the advertisement so referring to the (explicit) Content
 - is in keeping with the general nature, tone and theme of that particular media and is not calculated to offend the audience having access to that media, **AND**
 - abides by any advertising rules set by the owner or controller of that particular media, **AND**
 - conforms to any rulings issued by the ASASA in respect of that particular type of advertisement and media, **AND**
 - conforms to any similar rulings by the WASPA Adjudicator or WASPA Appeals Panel in respect of that particular type of advertisement and media, **AND WHICH**
 - conforms to any particular rules set by any mobile operator in respect of use of that Access Channel

- **WATERSHED HOURS:**

For broadcast media (eg TV/Radio) where a policy of watershed hours is implemented, advertisements containing sexually explicit words, images, or sounds:

(a) may only be broadcast during the watershed hours so defined by a licensed broadcaster,

AND

(b) may not contain any sexual Content or nudity in excess of that displayed within the programme the advertisement is placed in. For example, if no nudity is displayed within the programme, then no nudity (whether depicted through animation or otherwise) is allowed in the advertisement.

IMPORTANT NOTE:

It is entirely the responsibility of those placing an advertisement to determine which laws apply to its service as well as the extent or not of the Adult nature of the programme advertised in.

Advertisers must thus contact the relevant broadcaster to determine the classification/rating of any programme before placing their advertisements.

- Any advertisement that has reference to Content or services that are legally restricted to use only by Adults must indicate that it is for Adults only and/or that verification of the user's age may be required.

This indication must be placed both in the T&C and in the body of advertisement where the service or Content is advertised.

- No abbreviations to indicate the Adult restriction are allowed (eg '18' or '18+' may not be used).

Rather, text indicating the Adult restriction should use the following terminology:

“Adults Only. Verification of your age may be required.” **or**

“You must be over 18 to view images or hear sounds. Verification of your age may be required.” **or**

“You must be over 18 to enter this competition. Verification of your age may be required.”

8.3.2 **Age-Restricted Services** Indicate If Age-Restricted

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services - or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.

Examples of Age-Restricted Services (non-exhaustive list):

- Gambling Services
 - Contact-type services where Children may potentially come into contact with Adults masquerading as Children
 - Adult Content
 - Dating Services
 - Content that does not necessarily fit the definition of Adult Content, but which may contain images, audio or text that is obscene or otherwise unsuitable for access and consumption by Children
 - Competitions with Age Restrictions
- No abbreviations to indicate the Age Restriction are allowed (eg '18' or '18+' only may not be used).

Rather, text indicating the Age Restriction should use the following terminology:

“Adults Only. Verification of your age may be required.” **or**

“You must be over 18 to view images or hear sounds. Verification of your age may be required.” **or**

“You must be over 18 to enter this competition. Verification of your age may be required.”

8.3.3 **AVAILABILITY OF CONTENT/SERVICES**: Indicate any restrictions

If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Example: "Live chat not available between 01h00 and 07h00"

8.3.4 **BEARER REQUIREMENTS & CHARGES:** Indicate need for and possibility of additional bearer charges eg WAP

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text in both the body of the advertisement as well as in the T&C must indicate that additional bearer charges may apply.

eg "R10/Game + WAP charges"

- [See also 'PRICING' below]
- [See also 'TOTAL ACCESS REQUIREMENTS' below]

8.3.5 **COMPETITIONS:** Indicate If Prize Award is Conditional // Must have and show a closing date If Conditional

(**Note:** This section is not meant to be an exhaustive overview of any possible permutation of competition types. The general guiding principles remain however)

- Promotional material must clearly state any information which is likely to affect a decision to participate, including:
 - the closing date;
 - any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
 - any significant age, geographic, or other eligibility restrictions;
 - any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.
 - any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize

- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.

- Adverts for Competitions must show a specific closing date, except where there are instant prize-winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.
- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text
- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.
- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.
- All correct entries must have the same chance of winning.

Best Practice Suggestion For Instant Notification Of Prize Winners With no minimum requirements entry conditions:

Display text: E.g. "Prizes will only be awarded after 1 Jan 200x"

Display text: E.g. "Competition closes after 1,000 entries received".

Display text: E.g. "Every 50th SMS received wins a prize. Prizes awarded after 1 December 2006."

Best Practice Suggestion For Instant Prize Competitions With Minimum Entry Requirements:

Display text: E.g. "Competition begins after 1,000 entries received. Closes 1 January 2007".

Display text: E.g. "Competition begins after 1,000 entries received. Every 50th SMS received thereafter wins a prize. Prizes awarded after 1 December 2006."

- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.
- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

8.3.6 **CONTACT DETAILS:** Provide web site address AND helpline number/shortcode // Contact details must be displayed as part of the T&C details.

- Advertisers must include a helpline number or a working web site address that has direct applicability and linkage to the advertiser
- If an IVR or SMS system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for contacting the advertiser or as a helpline access, then the fact that this access number is Premium Rated or uses VAS rates must be indicated next to the access number.

- Eg "**Helpline 08x-xxx-xxxx. VAS Rates. Free Minutes Do Not Apply.**

- Note the general rule in v3.2 of the WASPA Code Of Conduct that a Premium Rated SMS number used as a contact number for the advertiser, or as a helpline, or for unsubscribing from a service **may not exceed R1 in total.**

- **Eg : "SMS 'Help' to 31xxx. R1/SMS. Premium Rates. Free SMSs Do Not Apply."**

8.3.7 **CONTACT-TYPE SERVICES:** Indicate If Any restrictions apply to access or use // Indicate if multiple registration or other steps required before full use of advertised service is possible // Indicate Adult and/or Age-Restricted nature of the service if advertised as having sexual content or ordinarily unsuitable for access and use by children // Use AVS if service has Adult Content as defined and/or if Age-Restricted // Indicate source and unsubscribe facility if no contact for more than 10 days

- If a Contact-type service is advertised as containing sexual content or is advertised as having content that, ordinarily, would be unsuitable for children, then advertisements for that service must indicate that it is for use by Adults only.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- If a Contact-type service is advertised as containing sexual content, then an **Adult Verification System** must be used for registration of new users to that Contact-type service.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- Advertisements for any interactive chat, flirt, dating or similar Contact-type services (whether anonymous or not) must indicate whether any restrictions apply to its full use. Eg Time of day, age.
 - [See also "**AVAILABILITY OF CONTENT/SERVICES**" above]
 - [See also Definition of "**ADULT**" above]

- If a user must first successfully complete multiple steps requiring multiple communications to the service before they are able to fully access or use the service as advertised, then this must be specified in the advertisement.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

- If using SMS as the Access Channel for a Contact-type service, each request for a user to respond to a message sent to a user as part of that service must indicate the price of the reply

if the price at any stage of the communication, differs at all from the initial advertised service price.

- If using SMS as the Access Channel for a Contact-type service, and where there has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and no more than 120 seconds if using IVR or any other time-based method as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- If a Contact-type service using IVR as the Access Channel requires the user to first listen to a (recorded) audio before they can access the actual person, service or facility otherwise so indicated or suggested by the wording or design of the advertisement, and this waiting time **exceeds 60 seconds** from the start of the IVR call, then the minimum 'waiting' time must be also indicated.
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below"]

8.3.8 **DISTRIBUTION LISTS**: Indicate If Consumer Automatically Placed On List. // No sexual or sexually suggestive Content in list if the list recipient does not request or expect it. // Provide reasonable opt-out procedure // Sender must have direct and recent association with recipient

- If by requesting any Content or accessing a service, the consumer so doing is automatically placed on a distribution list that will continuously or periodically send that consumer further related or unrelated communications from that Content provider or any other Content provider or advertiser, then the T&C text must explicitly specify in the T&C that updates will be sent until cancelled. *[Note that v3.2 of the Code of Conduct specifies that the sender must have a "Direct & Recent" association with the recipient].*

Best Practice Suggestion

Display text: "Updates sent until cancelled"

- 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.
- The sender to a distribution list must indicate the cost and T&C of access to a service in each and every communication, even the receiver was previously a user of that service. No assumption as to the knowledge of the recipient in respect of the costs and T&C of a service must be made for users who had previously used the service.
- If using SMS as the Access Channel and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, must indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and may not be more than 120 seconds if using IVR or any other voice-based system as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- **Opt-Out:** Any further communication with a consumer in a distribution list must contain a relatively easy and unambiguous method for immediately opting-out of any further communications from that distribution list:
 - **Fax:** No premium rated fax lines [eg 0866 fax-2-email type numbers] may be used for the mandatory opt-out procedure.
 - **SMS:** The total cost of opting-out from any distribution list using a premium rated SMSs Access Channel may not exceed R1 total cost
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]
 - [See also v3.2 of "**WASPA CODE OF CONDUCT**"]
 - **IVR (or any other time-based method):** Where applicable, any IVR systems used for any opt-out procedure must be designed so that a reasonable user will not need to exceed 120 seconds (from the start of the IVR call or time-based method) for the entire opt-out process.
 - [See also "**PRICING**" below]
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

8.3.9 **FAILED REQUESTS:** Indicate If Failed Requests Billed

- If for any reason the service bills for incorrect, failed, or unsuccessful requests, then the T&C text must display this (if applicable)

Best Practice Suggestion:

Display text: "Errors billed"

8.3.10 **LIVE SERVICES:** [In relation to live Contact-type services only] Advertisements may not use the word 'live' to describe systems where a recording or an automated system is used in place of a real-time interaction with a human

- No advertisement may be designed or worded in a manner that may create an expectation by a reasonable person that there is real-time or near-real time communication with a human offered as part of the service, where in fact there is no live real-time or near-real-time interaction whatsoever with a human available as part of that advertised service, or where the real time interaction with the human does not constitute the essence of the service

Eg Recordings that simulate "eavesdropping" on purported conversations between two or more persons do not constitute 'live services'.

- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.
 - [See "**AVAILABILITY OF CONTENT/SERVICES**" above]

8.3.11 **NETWORK COMPATIBILITY:** Indicate If Services Are Network-dependent // Indicate if subscription-type dependent

- There must be an clear indication in the advertisement detailing which mobile networks the user must have access to for fully access any Content and/or participate in the service offered
- If only contract-only or prepaid-only users have access to the service, this must be indicated

- 8.3.12 **PRICING:** Show component, bearer and total cost //
Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised

Overview:

The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.

Background:

Note that the term "Standard Rates Apply" as has in the past been used widely is, according to the definitions supplied by all three mobile networks, an **incorrect** description of IVR and PSMS, as a "**Standard Rate**" is only applicable to use of eg free bundled SMSs/Minutes. The original term was "VAS Standard Rates Apply" which was only applicable to IVR access, but which many over time **incorrectly** abbreviated to "Standard Rates" with purported applicability to for both IVR, PSMS, and Premium Rated USSD Access Channels.

Standard Rate: [see Also definition of Standard Rate in the Definition section]

A Standard Rate is a rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies. Thus, where free/bundled SMSs/Minutes cannot be utilized or where the tariff for an Access Channel differs from the in-bundle tariff for any user pursuant to the terms of conditions of the service agreement that user has with a mobile network operator, then term "**Standard Rate**" may not, from implementation of the Ad Rules, be used under those circumstances.

Instead, the following must be used:

For IVR Lines: "VAS Rates Apply. Free Minutes Do Not Apply"

Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".

Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) if the SMSs/Minutes are not available free or in a bundle.

(a) **Bearer Costs:**

If additional WAP/GPRS bearer charges may be incurred over and above any other Access Channel costs, the possibility thereof must be indicated.

eg "**2x R5 SMS = Total R10 + WAP Charges**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below]

(h) **IVR:**

- Any IVR system using a VAS rated Access Channel provided by or through a licensed mobile operator for access to any services or Content must be identified as such, along with a notice that free minutes will not apply.

- If the minimum amount of time the user is required to stay on the line to access the service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised service or Content must be indicated.
- The following is an example of component and total cost indications:

Examples:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reason:

- VAS rate nature of the phone number has not been disclosed
- Inability to use free minutes has not been disclosed
- Minimum amount of time to fully access service/Content has not been disclosed
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below for more detailed requirements]

(c) **USSD:**

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the potential for any additional costs associated with specific menu selections.
 - [See "**USSD ACCESS**" below]

(d) **SMS:**

- The cost of a single (or component) SMS used for access to a service must be indicated.
- If more than one SMS is required to access the service/Content, then the number of SMSs so required and their individual cost for access must be indicated. The total cost involved in accessing the full service based on the cumulative number of SMSs required must also be disclosed.

For example, if a number of SMSs are required for registration before full access and use of an advertised service becomes available to a user, then the possibility thereof and then the number of required SMSs must be indicated.

Eg "2x R5 SMS = Total R10 + WAP Charges"

Eg "3 x R5 SMSs required for service registration. Total cost R15"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below for detailed requirements]

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3a (where NOT part of a subscription service):

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 3b (where part of a subscription service that eg has a minimum of 5 weeks subscription):

Correct: "Subscription Service. R5/week for 6 weeks. Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

8.3.13 **SUBSCRIPTION SERVICES:** Show Total Subscription Charge, Frequency of Charge, any bearer charges and any additional charge/s

(i) **Must Use The Words "Subscription Service"**

If the Content provider is providing a continuous, subscription-like or subscription-based service, then the words "Subscription Service" must be prominently displayed at the top section of the advertisement as well as at each Content or service section in the advertisement where various subscription types are displayed.

No acronym, letter (eg "S"), number, abbreviation (eg "Subs"), icon, or any other mark may be used as an alternative to the words "Subscription Service" anywhere in the advertisement when that Content is only available at all and/or at a particular cost as part of a subscription service.

(ii) **Must Indicate Charge/s:**

The advertisement must indicate in the font size, position and type as indicated:

- (a) The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- (b) The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- (c) Whether, in addition to the periodic subscription charges in (a) & (b) above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement. **[See (iii) below]**

This indication must include the potential and cost of any (additional) bearer charges.

(iii) **Must Indicate Cost Of Any (Additional) Per-Content Access**

If in addition to a periodic subscription charge the consumer could additionally be charged on a per-access basis for access to any particular service, Content or class of Content on the advertisement within the subscription period and terms, then the advertiser must make it clear to the consumer that access this Content or service will, over and above the periodic subscription cost, incur additional charges per Content or service access.

The periodic subscription cost, the frequency of the periodic charge, and where applicable, the additional access cost must all be displayed clearly and TOGETHER, in a position immediately above, below, or to the side of the Content, service, or class of Content. There must in particular be an indication whether bearer charges are included or not in the access cost.

- [See also '**BEARER CHARGES**' above)

(iv) **Must Differentiate Clearly Between Multiple Subscription Types**

If in any advertisement there may exist the possibility to subscribe to a number of individual subscription services which would ordinarily each carry a separate but additional subscription charge and associated charging frequency or additional per-Content access charge, then this possibility of the consumer being charged at multiple prices and charging frequency must be clearly indicated.

(v) **Must clearly Differentiate Between Non-subscription and subscription Types if both available in the same advertisement:**

Taking into account the provisions in section 11.1.2 in v3.2 of the WASPA Code Of Conduct on relating to an "**independent transaction**," if an advertisement has components to it that promote

(a) Content that is ordinarily made available to a consumer on payment of a once-off payment for that individual Content without the need to subscribe to that service,

AND

(b) Content that will be available at all, and/or at a particular price or even free only if the consumer subscribes to a subscription service,

then this distinction between the availability of non-subscription and subscription charging must be made clear by unambiguously demarcating in separate sections (and not just wording) the non-subscription portion from the subscription service portion or Content in the advertisement.

The words "Subscription Service" as well as the total charges and any additional access charges and charge frequency for that subscription service must be clearly indicated in the form specified.

ADDITIONAL BACKGROUND NOTES TO SUBSCRIPTION SERVICES:

Any request to be subscribed to a subscription service must be an **INDEPENDENT TRANSACTION** (see s11.1.2 of v3.2 of the WASPA Code of Conduct). Hence subscribers cannot be subscribed to a subscription service through having requested specific Content, or having being made to believe by a (practically) confusing ad design that they are requesting Content on a once-off (non-subscription) basis.

Confusion by consumers may arise in cases where a single advert may indicate the availability of Content to users (usually on a network that has not enabled subscription services) on a once-off basis, as well as on a subscription basis (to users on a network that has enabled subscription services), even though the subscription and non-subscription services may be on a different number range.

If confusing, this may create the scenario where the consumer lacks a specific intention of subscribing to a service (s11.1.2).

To avoid this scenario, advertisers must avoid advertising material designs where subscription service access can be confused with non-subscription services for the same or same type of Content in the same ad. Unless this distinction is made clear, the non-subscription portion of an ad which has as its center the requesting of specific Content (on a once-off basis to users on a network that does not have subscription services) may have the effect of (possibly inadvertently) **breaching** the 'independent transaction' criteria of the subscription portion of the code of conduct (See also s11.1.4 of v3.2 of the Code of Conduct)

8.3.14 **TECHNICAL CONDITIONS FOR ACCESS:** Indicate which users and/or phones can access services

- The display text must indicate whether the service can only be accessed by:

- (ee) Phones with any particular technical specification(s)
- (ff) Any particular time period [See also "**AVAILABILITY OF SERVICES/CONTENT**" above]
- (gg) Any particular bearers [See also "**BEARER CHARGES**" above]
- (hh) Any particular mobile operator networks [See also "**NETWORK COMPATIBILITY**" above]
- (ii) Any particular mobile operator subscription types [See "also **NETWORK COMPATIBILITY**" above]

However, because there are numerous phones on the market each with different technical specifications, it may be impractical to list all these handsets in media which is non-permanent (eg TV/Radio). These must however be shown in permanent media (eg Web/Print)

INDICATE IF SERVICE IS HANDSET-RESTRICTED

[Note: *Best efforts at handset compatibility if restricted to more than 30 handset models*]

- *Nokia Series60 handset required **or***
- *Java Handset Required **or***
- *Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS) **or***
- *Only available for Compatible Handsets. For List, see xyz.co.za/handsets **or***
- *Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).*

8.3.15 **TOTAL ACCESS REQUIREMENTS:** WAP/GPRS: Indicate if WAP/GPRS require // For SMSs:

Indicate Number Of SMSs required for full access to Content or for registration to allow full use of the advertised service. // For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper // Include possibility of bearer charges if applicable.

o [See also "**PRICING**" above]

- WAP/GPRS

Indicate if WAP and/or GPRS is required for full access to the Content/services.

- IVR:

If an IVR system using any premium rated or VAS rates channel provided by or through a licensed mobile operator is used for access to any services or Content, and the minimum time a reasonable user would require for minimum access to the advertised service or Content **exceeds 60 seconds**, then the minimum amount of time required for this minimum access to the Content or service must be indicated.

For example, if a Contact-type service, Competition line, or similar service exceeds 60 seconds in total length (from the start of the call) by requiring the user to first listen to for example **2 minutes** (120 seconds) of recorded audio before they can access the actual person, service or facility otherwise so indicated by the wording or design of the advertisement, then this minimum 'waiting' time must be also indicated.

EXAMPLE:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reasons:

- No Indication Of VAS Rate nature of 08x access number.
- No Indication that Free Minutes are not available for access to the service.
- (If over 60 seconds waiting time), No minimum call time to access service proper indicated.

- **SMS:**

If more than one SMS is required to access the service/Content (and if additional bearer charges may apply), then indicate:

- (y) The number of SMSs required **AND**
- (z) The individual component cost for access must be indicated **AND**
- (aa) The total cost involved in accessing the full service. **AND**
- (bb) Any additional bearer or Content/service charges must be indicated.

For example, if a number of SMSs are required for before full access and use of an advertised service becomes available to a user, then the possibility thereof and if so, the minimum number of required SMSs must be indicated in the T&C.

Eg "2x R5 SMS = Total R10 + WAP Charges. Premium Rates. No Free SMSs"

Eg "3 x R5 SMSs required for registration. Total cost R15. Premium Rates. Free SMSs Do Not Apply."

The following are *examples* of component and total cost indications (and bearer charges where applicable):

EXAMPLE 1: [where only one eg R5 shortcode for access to Content/services is being used]

Correct: "2 x R5 SMSs. Total R10 + WAP charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the component and cumulative cost of multiple SMSs as required must be displayed

EXAMPLE 2: [where one R5 SMS and one R30 SMS is required for access to Content/services]

Correct: "1 x R5 SMSs + 1x R30 SMS. Total R35 + WAP Charges"

Incorrect: "2 x SMS"

Reasons:

- No Individual SMS Costs Shown (Should be eg R5)
- No Bearer Requirement Shown (if required)
- No total cost to consumer shown (Should be eg R10 + WAP Charges)
- Note that the component and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3a (where NOT part of a subscription service):**

Correct: "R30 + WAP charges for 6 pictures. "

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- No individual SMS costs shown (Should be eg R5)
- No Bearer requirement shown (if required)
- No Total Cost To Consumer shown (should be **R30 + WAP charges**)
- Note that even where only one eg R5 shortcode for access to Content/services is used by the provider in the advertisement, the individual and cumulative cost of multiple SMSs as required must be displayed

• **EXAMPLE 3b (where part of a subscription service that has eg a minimum of 6 weeks subscription):**

Correct: "Subscription Service. R5/week for 6 weeks.

Cost R30 + WAP charges for 6 pictures."

Incorrect: "R5/picture. Minimum 6 pictures"

Reasons:

- Subscription nature of service not shown (Should be eg R5/week)
- Minimum frequency of subscription billing not shown (should be 6 weeks)
- No Bearer Requirement Shown (if required)
- No Total Cost To Consumer Shown (should be **R30 + WAP charges**)

8.3.16 **USSD ACCESS:** Show Initial USSD Access Charges and Minimum Access times (if over 90 seconds)

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

Best Practice Suggestion:

Display Text: "Initial access cost 20 cents/20 seconds. Minimum 120 seconds."

8.3.17 **VAS/PREMIUM RATES:** Indicate That Free Minutes/SMSs Do Not Apply

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

8.3.18 **VAT:** All prices must include VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

Best Practice Suggestion:

Display Text: "All prices include VAT."

8.4 INFORMATION REQUIRED FOR DISCLOSURE

8.4.1 Where Applicable, The Following Is Mandatory Information That Must Be Displayed In Any Advertisement In Any Media Where An Access Channel Is Advertised:

1. PROVIDE CLEAR INDICATION OF TOTAL COST

- R5/SMS. Premium rates. Free SMSs Do Not Apply.
- R20/game. Premium rates. Free SMSs Do Not Apply. WAP required.
- Two SMSs Required at R--- each. Premium rates. Free SMSs Do Not Apply.
- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply.

2. PROVIDE CLEAR INDICATION OF MINIMUM REQUIREMENTS TO FULLY ACCESS SERVICE/CONTENT

- Call 08x-xxx-xxx. VAS Rates Apply. Free minutes Do Not Apply. Minimum 3 minutes.
- Seven SMSs at R--- each for registration. Premium rates. Free SMSs Do Not Apply.

3. INDICATE IF SUBSCRIPTION SERVICE, AND NATURE THEREOF - INCLUDING PRICE AND (MINIMUM) FREQUENCY

- This is a subscription service. You will be automatically charged R--- every week until you unsubscribe.
- This is a subscription service. You will be charged R-- per week until you unsubscribe, plus R—per wallpaper. WAP required.”

4. INDICATE WEB SITE ADDRESS IF REFERRING TO ADDITIONAL T&CS VIA WEB

- Eg xyz.co.za/tc

5. INDICATE CUSTOMER CARE ACCESS NUMBER

- Helpline 0xx-xxx-xxxx for
- For Help, SMS to 3xxxx (R1/SMS)

6. IDENTIFICATION OF WHO IS PROVIDING THE ADVERTISED SERVICE

- NiceCompany (Pty) Ltd

7. INDICATE IF ANY ACCESS REQUIREMENTS

- WAP Required
- GPRS Required
- WAP/GPRS required

8. INDICATE IF SERVICE IS HANDSET-RESTRICTED [Note: Best efforts at handset compatibility if restricted to more than 30 handset models]

- Nokia Series60 handset required **or**
- Java Handset Required **or**
- Only available for Compatible Handsets. For list, SMS Your Model Number to 3xxxx (R1/SMS) **or**

- Only available for Compatible Handsets. For List, see xyz.co.za/handsets
or
- Only available for Compatible Handsets. For list, Call Our Customer Care on 08x-xxx-xxxx (07h00 – 21h00).

9. INDICATE IF FAILED REQUESTS OR ERRORS CHARGED

- Errors charged
- Failed Requests Billed

10.INDICATE NETWORK / ACCESS RESTRICTIONS (IF ANY)

- XYZ Network contract subscribers only

11.INDICATE IF ACCESS TO SERVICE AUTOMATICALLY PLACES USER ON A DISTRIBUTION LIST. INDICATE METHOD & COST OF UNSUBSCRIBING.

- We reserve right to contact you. Updates sent until cancelled. Send 'unsubscribe' to 3xxxx (R1)
- Updates sent until cancelled. Send 'stop' to 3xxxx (R1)

12.INDICATE CLOSING DATE AND T&Cs OF COMPETITIONS

- Competition closes 1 January 2006. Winners will be notified by SMS. You must be over 18 to enter

13.INDICATE IF ANY AVAILABILITY RESTRICTIONS

- Live chat unavailable 01h00-07h00

14.INDICATE THAT ALL PRICES INCLUDE VAT

- All Prices include VAT.

15.INDICATE IF ANY AGE RESTRICTIONS

- Adults only. You may be asked to verify your age.

16.Indicate that consent to use service must first be required by bill payer

- Obtain bill payers consent before using this service

9 **INTERNET WEB SITES**

9.1 **SCOPE**

This section applies to all advertising placed on internet-based web sites visible to the general public where Access Channels are displayed. This also includes advertisements placed on third-party web sites.

9.2 **DISPLAY RULES FOR COST AND T&C INFORMATION**

9.2.1 **Broad Overview**

Show Full Cost and T&C

- No cost and T&C information may be placed on in-view pages, nor on any pop-up pages, nor on any page requiring a particular add-on component or facility not generally available to all users on the Internet.
- No incorporation by reference may be used to indicate that T&C s and pricing are available on another page of a web site. This means that the cost and T&C information associated with a unique access number must be immediately adjacent to, or above or below that unique access number and may not be placed solely on another web page, graphic or any other media.
- If multiple offers are made on the same web page and the cost and T&C differ with each offering, each offering must show the individual costs and T&C separately and clearly.
- For each unique access number, the full and final cost of the access must be displayed immediately below, or above, or adjacent to the unique access number in a font size and font type that is easily visible and readable.
- The display text must indicate the TOTAL cost involved in obtaining the full service, as well as the number of, for example SMSs or access times, and their individual cost, required for full access (if applicable).
- The pricing text must be clearly shown being independent of any other text or image, and not be placed or formatted in a manner where it may be obscured by other text information, graphics or marks that may be displayed around it.
- The cost and T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C
- Access cost text must be of a size that is at least 80% of the largest access number on the page, or 15 point font size, whichever is the greater. The access cost text must be in a non-serif font
- T&C text must be in 12 point font size, or 50% of the largest access number on a Web page, whichever is the greater. The T&C must be in a non-serif font.
- All access cost and T&C information must be placed horizontally

Subscription Services

Any advertisement that has a subscription service component must include:

- (a) the periodic subscription charge, AND
- (b) the charging frequency, AND
- (c) Any additional premium-rated or other additional charges that might be applicable to access particular content or services.

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.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

9.2.2

Cost OF ACCESS DISPLAY

9.2.2.1 **Formatting Of Access Cost Text:**

- Access cost text must be of a size that is at least **80%** of the largest access number on the page, or 15 point font size, whichever is the greater. The access cost text must be in a non-serif font
- The pricing text must be clearly shown being independent of any other text or image, and not be placed or formatted in a manner where it may be obscured by other text information, graphics or marks that may be displayed around it.
- The cost text must not be part of a colour scheme or design that could obscure (objective) easy reading of complete details of the price.
- All access cost information must be placed horizontally

9.2.2.2 **Position of Access Cost Text**

- For each unique access number, the full and final cost of the access must be displayed **immediately below, or above, or adjacent to the unique access number or Content access code** in a non-serif font.
- If the ad and/or offer is on a third party web site as a graphic or display text, then the display text with pricing and contact info **must** be displayed on immediately **below, above or to the side of** the access number to show the FULL cost to consumer. This includes for example, text-based ads placed on Google-based (or similar) advertisements.
- The T&C text must be placed close as possible to the unique access number.
- T&C information must be placed horizontally.
- If multiple offers are made on the same advertisement and the cost and T&C differ with each offering, each offering must show the cost & T&C separately and clearly.
- While cost information associated with an access number may be displayed elsewhere on a web site (for example cost information also placed in the T&C page of a web site), this must be done as part of a **duplication** of the pricing. Hence, cost information **cannot solely be placed on, for example only the T&C page** where accessing the T&C page requires that the user click away from the initial page that displayed the access number.
- The consumer should thus not have to scroll down significantly on that same page or follow any links to other pages to be made aware of the full pricing and T&C associated with a unique access number.

- No cost and/or T&C information may be placed on in-vue type pages.
- No cost and T&C information may be placed on any Internet web page requiring a particular add-on component or facility that is not generally available to all users on the Internet. This prohibition extends to placement on pop-up and in-vue pages.

9.2.3 **T&C DISPLAY RULES**

9.2.3.1 **Formatting & Font Criteria For T&C Text**

- The T&C text must be in **12 point font** size, or 50% of the largest access number on a Web page, whichever is the greater. The T&C must be in a non-serif font
- All T&C information must be placed horizontally

9.2.3.2 **Position of T&C display text**

- For each unique access number, the full and final cost of the access must be displayed **immediately below, or above, or adjacent to the unique access number** in a non-serif font.
- This T&C text must be placed close as possible to the unique access number.

If multiple offers are made on the same advertisement and the cost and T&C differ with each offering, each offering must show the cost & T&C separately and clearly.

9.2.4 **ADULT SERVICES [See also Age-Restricted Services]**: If the ads used to advertise any Adult Content *themselves* contain Adult Content, these ads are restricted to Adult Media // Ads referring to any Adult Content are restricted under certain conditions // An age verification system must be used for access to any Adult Content. // A warning that users must be 18 years or older to use a service must be shown

- **Advertisements Containing Adult Content (Images/Words/Sounds):**

In respect of the format and design of advertisements which are used to advertise Adult Content Services, if the advertisements *themselves* contain visual images and/or words or phrases that constitute or depict sexual conduct as is defined in the Films and Publications Act 65 of 1996, then these advertisements may only be sent to users who have been confirmed by a AVS as being adults. This restriction applies even if 'stars,' black strips or other attempts at direct visual blocking or disguising of any sexual conduct or explicit nudity are used in an advertisement.

- **Advertisements With References To Adult Content:**

In respect of an advertisement that contains references to Content Services, where that Content constitutes or depicts sexual conduct as defined in the Films and Publications Act 65, **but** where the advertisement itself for that Content does not constitute or depict sexual conduct as defined in the Films and Publications Act 65, then advertisements that so contain references to the (explicit) Content *may* be placed in any media, provided that:

- (a) An Adult Verification System is in place for access to that Content or service, **AND THAT**
- (b) abides by any advertising rules set by the owner or controller of that particular media, **AND**
 - conforms to any rulings issued by the ASASA in respect of that particular type of advertisement and media, **AND**
 - conforms to any similar rulings by the WASPA Adjudicator or WASPA Appeals Panel in respect of that particular type of advertisement and media, **AND WHICH**
 - conforms to any particular rules set by any mobile operator in respect of use of that Access Channel

- Any advertisement that has reference to Content or services that are legally restricted to use only by Adults must indicate that it is for Adults only and/or that verification of the user's age may be required.
- Abbreviations to indicate the Adult restriction are allowed (eg '18' or '18+' may be used).

9.2.5 **Age-Restricted Services** Indicate If Age-Restricted

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services - or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.

Examples of Age-Restricted Services (non-exhaustive list):

- Gambling Services
- Contact-type services where Children may potentially come into contact with Adults masquerading as Children
- Adult Content
- Dating Services
- Content that does not necessarily fit the definition of Adult Content, but which may contain images, audio or text that is obscene or otherwise unsuitable for access and consumption by Children
- Competitions with Age Restrictions

Abbreviations to indicate the Age Restriction are allowed (eg '18' or '18+' may be used).

9.2.6 **AVAILABILITY OF CONTENT/SERVICES:** Indicate any restrictions

If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Example: "Live chat not available between 01h00 and 07h00"

9.2.7 **BEARER REQUIREMENTS & CHARGES:** Indicate need for and possibility of additional bearer charges eg WAP

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text in both the body of the advertisement as well as in the T&C must indicate that additional bearer charges may apply.

eg "**R10/Game + WAP charges**"

- [See also '**PRICING**' below]

- [See also '**TOTAL ACCESS REQUIREMENTS**' below]

9.2.8 **COMPETITIONS:** Indicate If Prize Award is Conditional // Must have and show a closing date If Conditional

(Note: This section is not meant to be an exhaustive overview of any possible permutation of competition types. The general guiding principles remain however)

- Promotional material must clearly state any information which is likely to affect a decision to participate, including:
 - the closing date;
 - any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
 - any significant age, geographic, or other eligibility restrictions;
 - any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.
 - any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize
- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.
- Adverts for Competitions must show a specific closing date, except where there are instant prize-winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.
- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text
- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.
- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.
- All correct entries must have the same chance of winning.

- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.
- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

9.2.9 **CONTACT DETAILS:** Provide web site address AND helpline number/shortcode // Advertisers must include a helpline number or a working web site address that has direct applicability and linkage to the advertiser

- Note the general rule in v3.2 of the WASPA Code Of Conduct that a Premium Rated SMS number used as a contact number for the advertiser, or as a helpline, or for unsubscribing from a service **may not exceed R1 in total.**

9.2.10 **CONTACT-TYPE SERVICES:** Indicate If Any restrictions apply to access or use // Indicate if multiple registration or other steps required before full use of advertised service is possible // Indicate Adult and/or Age-Restricted nature of the service if advertised as having sexual content or ordinarily unsuitable for access and use by children // Use AVS if service has Adult Content as defined and/or if Age-Restricted // Indicate source and unsubscribe facility if no contact for more than 10 days

- If a Contact-type service is advertised as containing sexual content or is advertised as having content that, ordinarily, would be unsuitable for children, then advertisements for that service must indicate that it is for use by Adults only.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]
- If a Contact-type service is advertised as containing sexual content, then an **Adult Verification System** must be used for registration of new users to that Contact-type service.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]
- Advertisements for any interactive chat, flirt, dating or similar Contact-type services (whether anonymous or not) must indicate whether any restrictions apply to its full use. Eg Time of day, age.
 - [See also "**AVAILABILITY OF CONTENT/SERVICES**" above]

- [See also Definition of **"ADULT"** above]
- If a user must first successfully complete multiple steps requiring multiple communications to the service before they are able to fully access or use the service as advertised, then this must be specified in the advertisement.
 - [See also **"TOTAL ACCESS REQUIREMENTS"** below]
- If using SMS as the Access Channel for a Contact-type service, each request for a user to respond to a message sent to a user as part of that service must indicate the price of the reply if the price at any stage of the communication, differs at all from the initial advertised service price.
- If using SMS as the Access Channel for a Contact-type service, and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and no more than 120 seconds if using IVR or any other time-based method as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- If a Contact-type service using IVR as the Access Channel requires the user to first listen to a (recorded) audio before they can access the actual person, service or facility otherwise so indicated or suggested by the wording or design of the advertisement, and this waiting time **exceeds 60 seconds** from the start of the IVR call, then the minimum 'waiting' time must be also indicated.
 - [See also **"TOTAL ACCESS REQUIREMENTS"** below"]

9.2.11 **DISTRIBUTION LISTS**: Indicate If Consumer Automatically Placed On List. // No sexual or sexually suggestive Content in list if the list recipient does not request or expect it. // Provide reasonable opt-out procedure // Sender must have direct and recent association with recipient

- If by requesting any Content or accessing a service, the consumer so doing is automatically placed on a distribution list that will continuously or periodically send that consumer further related or unrelated communications from that Content provider or any other Content provider or advertiser, then the T&C text must explicitly specify in the T&C that updates will be sent until cancelled. *[Note that v3.2 of the Code of Conduct specifies that the sender must have a "Direct & Recent" association with the recipient].*

Best Practice Suggestion

Display text: "Updates sent until cancelled"

- 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.
- The sender to a distribution list must indicate the cost and T&C of access to a service in each and every communication, even the receiver was previously a user of that service. No assumption as to the knowledge of the recipient in respect of the costs and T&C of a service must be made for users who had previously used the service.
- If using SMS as the Access Channel and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, must indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and may not be more than 120 seconds if using IVR or any other voice-based system as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- **Opt-Out:** Any further communication with a consumer in a distribution list must contain a relatively easy and unambiguous method for immediately opting-out of any further communications from that distribution list:
 - **Fax:** No premium rated fax lines [eg 0866 fax-2-email type numbers] may be used for the mandatory opt-out procedure.
 - **SMS:** The total cost of opting-out from any distribution list using a premium rated SMSs Access Channel may not exceed R1 total cost
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]
 - [See also v3.2 of "**WASPA CODE OF CONDUCT**"]
 - **IVR (or any other time-based method):** Where applicable, any IVR systems used for any opt-out procedure must be designed so that a reasonable user will not need to exceed 120 seconds (from the start of the IVR call or time-based method) for the entire opt-out process.
 - [See also "**PRICING**" below]
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

9.2.12 **FAILED REQUESTS:** Indicate If Failed Requests Billed

- If for any reason the service bills for incorrect, failed, or unsuccessful requests, then the T&C text must display this (if applicable)

Best Practice Suggestion:

Display text: "Errors billed"

9.2.13 **LIVE SERVICES:** [In relation to live Contact-type services only] Advertisements may not use the word 'live' to describe systems where a recording or an automated system is used in place of a real-time interaction with a human

- No advertisement may be designed or worded in a manner that may create an expectation by a reasonable person that there is real-time or near-real time communication with a human offered as part of the service, where in fact there is no live real-time or near-real-time interaction whatsoever with a human available as part of that advertised service, or where the real time interaction with the human does not constitute the essence of the service

Eg Recordings that simulate "eavesdropping" on purported conversations between two or more persons do not constitute 'live services'.

- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.
 - [See "**AVAILABILITY OF CONTENT/SERVICES**" above]

9.2.14 **NETWORK COMPATIBILITY:** Indicate If Services Are Network-dependent // Indicate if subscription-type dependent

- There must be an clear indication in the advertisement detailing which mobile networks the user must have access to for fully access any Content and/or participate in the service offered
- If only contract-only or prepaid-only users have access to the service, this must be indicated

- 9.2.15 **PRICING:** Show component, bearer and total cost //
Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised

Overview:

The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.

Background:

Note that the term "Standard Rates Apply" as has in the past been used widely is, according to the definitions supplied by all three mobile networks, an **incorrect** description of IVR and PSMS, as a "**Standard Rate**" is only applicable to use of eg free bundled SMSs/Minutes. The original term was "VAS Standard Rates Apply" which was only applicable to IVR access, but which many over time **incorrectly** abbreviated to "Standard Rates" with purported applicability to for both IVR, PSMS, and Premium Rated USSD Access Channels.

Standard Rate: [see Also definition of Standard Rate in the Definition section]

A Standard Rate is a rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies. Thus, where free/bundled SMSs/Minutes cannot be utilized or where the tariff for an Access Channel differs from the in-bundle tariff for any user pursuant to the terms of conditions of the service agreement that user has with a mobile network operator, then term "**Standard Rate**" may not, from implementation of the Ad Rules, be used under those circumstances.

Instead, the following must be used:

For IVR Lines: "VAS Rates Apply. Free Minutes Do Not Apply"

Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".

Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) if the SMSs/Minutes are not available free or in a bundle.

(a) **Bearer Costs:**

If additional WAP/GPRS bearer charges may be incurred over and above any other Access Channel costs, the possibility thereof must be indicated.

eg "**2x R5 SMS = Total R10 + WAP Charges**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below]

(i) **IVR:**

- Any IVR system using a VAS rated Access Channel provided by or through a licensed mobile operator for access to any services or Content must be identified as such, along with a notice that free minutes will not apply.

- If the minimum amount of time the user is required to stay on the line to access the service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised service or Content must be indicated.
- The following is an example of component and total cost indications:

Examples:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reason:

- VAS rate nature of the phone number has not been disclosed
- Inability to use free minutes has not been disclosed
- Minimum amount of time to fully access service/Content has not been disclosed
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below for more detailed requirements]

(c) **USSD:**

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the potential for any additional costs associated with specific menu selections.
 - [See "**USSD ACCESS**" below]

(d) **SMS:**

- The cost of a single (or component) SMS used for access to a service must be indicated.
- If more than one SMS is required to access the service/Content, then the number of SMSs so required and their individual cost for access must be indicated. The total cost involved in accessing the full service based on the cumulative number of SMSs required must also be disclosed.

For example, if a number of SMSs are required for registration before full access and use of an advertised service becomes available to a user, then the possibility thereof and then the number of required SMSs must be indicated.

Eg "2x R5 SMS = Total R10 + WAP Charges"

Eg "3 x R5 SMSs required for service registration. Total cost R15"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below for detailed requirements]

9.2.16 **SUBSCRIPTION SERVICES:** Show Total Subscription Charge, Frequency of Charge, any bearer charges and any additional charge/s

(i) **Must Use The Words "Subscription Service"**

If the Content provider is providing a continuous, subscription-like or subscription-based service, then the words "Subscription Service" must be prominently displayed at the top section of the advertisement as well as at each Content or service section in the advertisement where various subscription types are displayed.

No acronym, letter (eg "S"), number, abbreviation (eg "Subs"), icon, or any other mark may be used as an alternative to the words "Subscription Service" anywhere in the advertisement when that Content is only available at all and/or at a particular cost as part of a subscription service.

(ii) **Must Indicate Charge/s:**

The advertisement must indicate:

- (a) The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- (b) The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- (c) Whether, in addition to the periodic subscription charges in (a) & (b) above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement. **[See (iii) below]**

This indication must include the potential and cost of any (additional) bearer charges.

(iii) **Must Indicate Cost Of Any (Additional) Per-Content Access**

If in addition to a periodic subscription charge the consumer could additionally be charged on a per-access basis for access to any particular service, Content or class of Content on the advertisement within the subscription period and terms, then the advertiser must make it clear to the consumer that access this Content or service will, over and above the periodic subscription cost, incur additional charges per Content or service access.

The periodic subscription cost, the frequency of the periodic charge, and where applicable, the additional access cost must all be displayed clearly and TOGETHER, in a position immediately above, below, or to the side of the Content, service, or class of Content. There must in particular be an indication whether bearer charges are included or not in the access cost.

- [See also '**BEARER CHARGES**' above)

(iv) **Must Differentiate Clearly Between Multiple Subscription Types**

If in any advertisement there may exist the possibility to subscribe to a number of individual subscription services which would ordinarily each carry a separate but additional subscription charge and associated charging frequency or additional per-Content access charge, then this possibility of the consumer being charged at multiple prices and charging frequency must be clearly indicated.

(v) **Must clearly Differentiate Between Non-subscription and subscription Types if both available in the same advertisement**

ADDITIONAL BACKGROUND NOTES TO SUBSCRIPTION SERVICES:

Any request to be subscribed to a subscription service must be an **INDEPENDENT TRANSACTION** (see s11.1.2 of v3.2 of the WASPA Code of Conduct). Hence subscribers cannot be subscribed to a subscription service through having requested specific Content, or having being made to believe by a (practically) confusing ad design that they are requesting Content on a once-off (non-subscription) basis.

Confusion by consumers may arise in cases where a single advert may indicate the availability of Content to users (usually on a network that has not enabled subscription services) on a once-off basis, as well as on a subscription basis (to users on a network that has enabled subscription services), even though the subscription and non-subscription services may be on a different number range.

If confusing, this may create the scenario where the consumer lacks a specific intention of subscribing to a service (s11.1.2).

To avoid this scenario, advertisers must avoid advertising material designs where subscription service access can be confused with non-subscription services for the same or same type of Content in the same ad. Unless this distinction is made clear, the non-subscription portion of an ad which has as its center the requesting of specific Content (on a once-off basis to users on a network that does not have subscription services) may have the effect of (possibly inadvertently) **breaching** the 'independent transaction' criteria of the subscription portion of the code of conduct (See also s11.1.4 of v3.2 of the Code of Conduct)

9.2.17 **TECHNICAL CONDITIONS FOR ACCESS**: Indicate which users and/or phones can access services

- The display text must indicate whether the service can only be accessed by:
 - Phones with any particular technical specification(s)
 - Any particular time period [See also "**AVAILABILITY OF SERVICES/CONTENT**" above]
 - Any particular bearers [See also "**BEARER CHARGES**" above]
 - Any particular mobile operator networks [See also "**NETWORK COMPATIBILITY**" above]
 - Any particular mobile operator subscription types [See "also **NETWORK COMPATIBILITY**" above]

However, because there are numerous phones on the market each with different technical specifications, it may be impractical to list all these handsets in media which is non-permanent (eg TV/Radio). These must however be shown in permanent media (eg Web/Print)

9.2.18 **TOTAL ACCESS REQUIREMENTS**

For SMSs: Indicate Number Of SMSs required for full access to Content or for registration to allow full use of the advertised service.

For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper // Include possibility of bearer charges if applicable.

9.2.19 **USSD ACCESS**: Show Initial USSD Access Charges and Minimum Access times (if over 90 seconds)

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

9.2.20 **VAS/PREMIUM RATES**: Indicate That Free Minutes/SMSs Do Not Apply

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

9.2.21 **VAT**: All prices must include VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

Best Practice Suggestion:

Display Text: "All prices include VAT."

This is 5 point times new roman font
This is 6 point times new roman font
This is 7 point times new roman font
This is 8 point times new roman font THIS IS 8 POINT TIMES NEW ROMAN FONT IN CAPS. TIMES ROMAN IS A SERIF FONT
This is 9 point times new roman font
This is 10 point times new roman font
This is 11 point times new roman font
This is 12 point times new roman font
This is 13 point times new roman font
This is 14 point times new roman font
This is 15 point times new roman font
This is 16 point times new roman font
This is 17 point times new roman font

This is 5 point arial font
This is 6 point arial font
This is 7 point arial font
This is 8 point arial font THIS IS 8 POINT ARIAL FONT IN CAPS. ARIAL IS A NON-SERIF FONT.
This is 9 point arial font
This is 10 point arial font
This is 11 point arial font
This is 12 point arial font
This is 13 point arial font
This is 14 point arial font
This is 15 point arial font
This is 16 point arial font
This is 17 point arial font
This is 18 point arial font
This is 19 point arial font

This is 5 point verdana font
This is 6 point verdana font
This is 7 point verdana font
This is 8 point verdana font THIS IS 8 POINT VERDANA FONT IN CAPS. VERDANA IS A NON-SERIF FONT.
This is 9 point verdana font
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This is 11 point verdana font
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This is 15 point verdana font
This is 16 point verdana font
This is 17 point verdana font
This is 18 point verdana font
This is 19 point verdana font

10 EMAIL OFFERS

10.1 SCOPE

Applies to all emails where Access Channels are displayed.

10.2 DISPLAY RULES FOR COST AND T&C INFORMATION

10.2.1 Broad Overview

Show Full Cost and T&C

- No cost and T&C information may be placed in-vue pages, nor on any pop-up pages, nor on any email page requiring a particular add-on component or any other facility not generally available on the Internet.
- No incorporation by reference may be used to indicate that T&C s and pricing are available on another page of a web site or some other medium, written or electronic . This means that the cost and T&C information associated with a unique access number must be immediately adjacent to, or above or below that unique access number and may not be placed solely on another web page or another medium.
- If multiple offers are made on the same web page and the cost and T&C differ with each offering, each offering must show the individual costs and T&C separately and clearly.
- For each unique access number, the full and final cost of the access must be displayed immediately below, or above, or adjacent to the unique access number in a font size and font type that is easily visible and readable.
- The display text must indicate the TOTAL cost involved in obtaining the full service, as well as the number of, for example SMSs or access times, and their individual cost, required for full access (if applicable).
- The pricing and T&C text must not be buried/obscured by other text information that may be displayed as part of the ad.
- The cost and T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C
- Access cost text must be of a size that is at least 80% of the largest access number on the page, or 15 point font size, or 80% of the largest access number on that email page whichever is the greater. The access cost text must be in a non-serif font
- T&C text must be in 12 point font size, or 50% of the largest access number on an email page, whichever is the greater. The T&C must be in a non-serif font
- Both the access cost and T&C text must be placed in a horizontal position.

Subscription Services

Any advertisement that has a subscription service component must include:

- (a) the periodic subscription charge, AND
- (b) the charging frequency, AND
- (c) Any additional premium-rated or other additional charges that may be applicable to access particular content or services.

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.

Advertising material for content services may not contain visual images and/or words or phrases that constitute or depict sexual conduct as defined in the Films and Publications Act 65 of 1996 unless contained in media that has been lawfully authorised to be distributed to and/or viewed by persons over the age of 18 only, and/or media that is distributed under restricted conditions.

10.2.2 **COST OF ACCESS AND T&C DISPLAY RULES**

10.2.2.1 **Formatting Of Access Cost Text**

- The size of the text showing the cost of access must be 80% of the largest-sized version of the access number displayed on the advertisement.
- All access cost information must be placed horizontally

10.2.2.2 **Formatting & Font Criteria For T&C Text**

- The T&C text must be 70% of the largest-sized version of the access number displayed on the advertisement.
- All T&C information must be placed horizontally

10.2.2.3 **Position Of the Access Cost Text**

- Display Text with pricing and contact info must be displayed on immediately below, above or to the side of the access number to show the FULL cost to consumer. The T&C text must be placed close as possible to the unique access number.
- If multiple offers are made on the same advertisement and the cost and T&C differ with each offering, each offering must show the cost & T&C separately and clearly.
- The consumer should not have to scroll down significantly on the email or follow any links to external pages to be made aware of the full pricing and T&C associated with a unique access number.
- No cost and/or T&C information may be placed on in-view type pages, nor on any pop-up pages, nor on any email page requiring a particular add-on component not generally available on the Internet.

10.2.3 **ADULT SERVICES [See also Age-Restricted Services]**: If the ads used to advertise any Adult Content *themselves* contain Adult Content, these ads are restricted to Adult Media // Ads referring to any Adult Content are restricted under certain conditions // An age verification system must be used for access to any Adult Content. // A warning that users must be 18 years or older to use a service must be shown

- **Advertisements Containing Adult Content (Images/Words/Sounds):**

In respect of the format and design of advertisements which are used to advertise Adult Content Services, if the advertisements *themselves* contain visual images and/or words or phrases that constitute or depict sexual conduct as is defined in the Films and Publications Act 65 of 1996, then these advertisements may only be sent to users who have been confirmed by a AVS as being adults. This restriction applies even if 'stars,' black strips or other attempts at direct visual blocking or disguising of any sexual conduct or explicit nudity are used in an advertisement.

- **Advertisements With References To Adult Content:**

In respect of an advertisement that contains references to Content Services, where that Content constitutes or depicts sexual conduct as defined in the Films and Publications Act 65, **but** where the advertisement itself for that Content does not constitute or depict sexual conduct as defined in the Films and Publications Act 65, then advertisements that so contain references to the (explicit) Content *may* be placed in any media, provided that:

- (a) An Adult Verification System is in place for access to that Content or service, **AND THAT**
- (b) abides by any advertising rules set by the owner or controller of that particular media, **AND**
 - conforms to any rulings issued by the ASASA in respect of that particular type of advertisement and media, **AND**
 - conforms to any similar rulings by the WASPA Adjudicator or WASPA Appeals Panel in respect of that particular type of advertisement and media, **AND WHICH**
 - conforms to any particular rules set by any mobile operator in respect of use of that Access Channel

- Any advertisement that has reference to Content or services that are legally restricted to use only by Adults must indicate that it is for Adults only and/or that verification of the user's age may be required.
- Abbreviations to indicate the Adult restriction are allowed (eg '18' or '18+' may be used).

10.2.4 **Age-Restricted Services** Indicate If Age-Restricted

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services - or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.

Examples of Age-Restricted Services (non-exhaustive list):

- Gambling Services
- Contact-type services where Children may potentially come into contact with Adults masquerading as Children
- Adult Content
- Dating Services
- Content that does not necessarily fit the definition of Adult Content, but which may contain images, audio or text that is obscene or otherwise unsuitable for access and consumption by Children
- Competitions with Age Restrictions

Abbreviations to indicate the Age Restriction are allowed (eg '18' or '18+' may be used).

10.2.5 **AVAILABILITY OF CONTENT/SERVICES:** Indicate any restrictions

If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Example: "Live chat not available between 01h00 and 07h00"

10.2.6 **BEARER REQUIREMENTS & CHARGES:** Indicate need for and possibility of additional bearer charges eg WAP

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text in both the body of the advertisement as well as in the T&C must indicate that additional bearer charges may apply.

eg "**R10/Game + WAP charges**"

- [See also '**PRICING**' below]
- [See also '**TOTAL ACCESS REQUIREMENTS**' below]

10.2.7 **COMPETITIONS:** Indicate If Prize Award is Conditional // Must have and show a closing date If Conditional

(Note: This section is not meant to be an exhaustive overview of any possible permutation of competition types. The general guiding principles remain however)

- Promotional material must clearly state any information which is likely to affect a decision to participate, including:
 - the closing date;
 - any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
 - any significant age, geographic, or other eligibility restrictions;
 - any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.
 - any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize

- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.

- Adverts for Competitions must show a specific closing date, except where there are instant prize-winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.

- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text

- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.

- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.

- All correct entries must have the same chance of winning.

- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition

within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.

- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

10.2.8 **CONTACT DETAILS:** Provide web site address AND helpline number/shortcode // Advertisers must include a helpline number or a working web site address that has direct applicability and linkage to the advertiser

- Note the general rule in v3.2 of the WASPA Code Of Conduct that a Premium Rated SMS number used as a contact number for the advertiser, or as a helpline, or for unsubscribing from a service **may not exceed R1 in total.**

10.2.9 **CONTACT-TYPE SERVICES:** Indicate If Any restrictions apply to access or use // Indicate if multiple registration or other steps required before full use of advertised service is possible // Indicate Adult and/or Age-Restricted nature of the service if advertised as having sexual content or ordinarily unsuitable for access and use by children // Use AVS if service has Adult Content as defined and/or if Age-Restricted // Indicate source and unsubscribe facility if no contact for more than 10 days

- If a Contact-type service is advertised as containing sexual content or is advertised as having content that, ordinarily, would be unsuitable for children, then advertisements for that service must indicate that it is for use by Adults only.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]
- If a Contact-type service is advertised as containing sexual content, then an **Adult Verification System** must be used for registration of new users to that Contact-type service.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]
- Advertisements for any interactive chat, flirt, dating or similar Contact-type services (whether anonymous or not) must indicate whether any restrictions apply to its full use. Eg Time of day, age.
 - [See also "**AVAILABILITY OF CONTENT/SERVICES**" above]

- [See also Definition of **"ADULT"** above]
- If a user must first successfully complete multiple steps requiring multiple communications to the service before they are able to fully access or use the service as advertised, then this must be specified in the advertisement.
 - [See also **"TOTAL ACCESS REQUIREMENTS"** below]
- If using SMS as the Access Channel for a Contact-type service, each request for a user to respond to a message sent to a user as part of that service must indicate the price of the reply if the price at any stage of the communication, differs at all from the initial advertised service price.
- If using SMS as the Access Channel for a Contact-type service, and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and no more than 120 seconds if using IVR or any other time-based method as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- If a Contact-type service using IVR as the Access Channel requires the user to first listen to a (recorded) audio before they can access the actual person, service or facility otherwise so indicated or suggested by the wording or design of the advertisement, and this waiting time **exceeds 60 seconds** from the start of the IVR call, then the minimum 'waiting' time must be also indicated.
 - [See also **"TOTAL ACCESS REQUIREMENTS"** below"]

10.2.10 **DISTRIBUTION LISTS**: Indicate If Consumer Automatically Placed On List. // No sexual or sexually suggestive Content in list if the list recipient does not request or expect it. // Provide reasonable opt-out procedure // Sender must have direct and recent association with recipient

- If by requesting any Content or accessing a service, the consumer so doing is automatically placed on a distribution list that will continuously or periodically send that consumer further related or unrelated communications from that Content provider or any other Content provider or advertiser, then the T&C text must explicitly specify in the T&C that updates will be sent until cancelled. *[Note that v3.2 of the Code of Conduct specifies that the sender must have a "Direct & Recent" association with the recipient].*

Best Practice Suggestion

Display text: "Updates sent until cancelled"

- 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.
- The sender to a distribution list must indicate the cost and T&C of access to a service in each and every communication, even the receiver was previously a user of that service. No assumption as to the knowledge of the recipient in respect of the costs and T&C of a service must be made for users who had previously used the service.
- If using SMS as the Access Channel and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, must indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and may not be more than 120 seconds if using IVR or any other voice-based system as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- **Opt-Out:** Any further communication with a consumer in a distribution list must contain a relatively easy and unambiguous method for immediately opting-out of any further communications from that distribution list:
 - **Fax:** No premium rated fax lines [eg 0866 fax-2-email type numbers] may be used for the mandatory opt-out procedure.
 - **SMS:** The total cost of opting-out from any distribution list using a premium rated SMSs Access Channel may not exceed R1 total cost
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]
 - [See also v3.2 of "**WASPA CODE OF CONDUCT**"]
 - **IVR (or any other time-based method):** Where applicable, any IVR systems used for any opt-out procedure must be designed so that a reasonable user will not need to exceed 120 seconds (from the start of the IVR call or time-based method) for the entire opt-out process.
 - [See also "**PRICING**" below]
 - [See also "**TOTAL ACCESS REQUIREMENTS**" below]

10.2.11 **FAILED REQUESTS:** Indicate If Failed Requests Billed

- If for any reason the service bills for incorrect, failed, or unsuccessful requests, then the T&C text must display this (if applicable)

Best Practice Suggestion:

Display text: "Errors billed"

10.2.12 **LIVE SERVICES:** [In relation to live Contact-type services only] Advertisements may not use the word 'live' to describe systems where a recording or an automated system is used in place of a real-time interaction with a human

- No advertisement may be designed or worded in a manner that may create an expectation by a reasonable person that there is real-time or near-real time communication with a human offered

as part of the service, where in fact there is no live real-time or near-real-time interaction whatsoever with a human available as part of that advertised service, or where the real time interaction with the human does not constitute the essence of the service

Eg Recordings that simulate “eavesdropping” on purported conversations between two or more persons do not constitute ‘live services’.

- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.
 - [See “**AVAILABILITY OF CONTENT/SERVICES**” above]

10.2.13 **NETWORK COMPATIBILITY:** Indicate If Services Are Network-dependent // Indicate if subscription-type dependent

- There must be an clear indication in the advertisement detailing which mobile networks the user must have access to for fully access any Content and/or participate in the service offered
- If only contract-only or prepaid-only users have access to the service, this must be indicated

Best Practice Suggestion: **Display text: “XYZNetwork contract users only”**

10.2.14 **PRICING:** Show component, bearer and total cost //
Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised

Overview:

The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.

Background:

Note that the term "Standard Rates Apply" as has in the past been used widely is, according to the definitions supplied by all three mobile networks, an **incorrect** description of IVR and PSMS, as a "**Standard Rate**" is only applicable to use of eg free bundled SMSs/Minutes. The original term was "VAS Standard Rates Apply" which was only applicable to IVR access, but which many over time **incorrectly** abbreviated to "Standard Rates" with purported applicability to for both IVR, PSMS, and Premium Rated USSD Access Channels.

Standard Rate: [see Also definition of Standard Rate in the Definition section]

A Standard Rate is a rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies. Thus, where free/bundled SMSs/Minutes cannot be utilized or where the tariff for an Access Channel differs from the in-bundle tariff for any user pursuant to the terms of conditions of the service agreement that user has with a mobile network operator, then term "**Standard Rate**" may not, from implementation of the Ad Rules, be used under those circumstances.

Instead, the following must be used:

For IVR Lines: "VAS Rates Apply. Free Minutes Do Not Apply"

Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".

Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) if the SMSs/Minutes are not available free or in a bundle.

(a) **Bearer Costs:**

If additional WAP/GPRS bearer charges may be incurred over and above any other Access Channel costs, the possibility thereof must be indicated.

eg "**2x R5 SMS = Total R10 + WAP Charges**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below]

(j) **IVR:**

- Any IVR system using a VAS rated Access Channel provided by or through a licensed mobile operator for access to any services or Content must be identified as such, along with a notice that free minutes will not apply.
- If the minimum amount of time the user is required to stay on the line to access the service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised

service or Content must be indicated.

- The following is an example of component and total cost indications:

Examples:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reason:

- VAS rate nature of the phone number has not been disclosed
 - Inability to use free minutes has not been disclosed
 - Minimum amount of time to fully access service/Content has not been disclosed
- [See also "TOTAL ACCESS REQUIREMENTS" below for more detailed requirements]

(c) **USSD:**

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the potential for any additional costs associated with specific menu selections.
- [See "USSD ACCESS" below]

(d) **SMS:**

- The cost of a single (or component) SMS used for access to a service must be indicated.
- If more than one SMS is required to access the service/Content, then the number of SMSs so required and their individual cost for access must be indicated. The total cost involved in accessing the full service based on the cumulative number of SMSs required must also be disclosed.

For example, if a number of SMSs are required for registration before full access and use of an advertised service becomes available to a user, then the possibility thereof and then the number of required SMSs must be indicated.

Eg "2x R5 SMS = Total R10 + WAP Charges"

Eg "3 x R5 SMSs required for service registration. Total cost R15"

- [See also "TOTAL ACCESS REQUIREMENTS" below for detailed requirements]

10.2.15 **SUBSCRIPTION SERVICES:** Show Total Subscription Charge, Frequency of Charge, any bearer charges and any additional charge/s

(i) **Must Use The Words "Subscription Service"**

If the Content provider is providing a continuous, subscription-like or subscription-based service, then the words "Subscription Service" must be prominently displayed at the top section of the advertisement as well as at each Content or service section in the advertisement where various subscription types are displayed.

No acronym, letter (eg "S"), number, abbreviation (eg "Subs"), icon, or any other mark may be used as an alternative to the words "Subscription Service" anywhere in the advertisement when that Content is only available at all and/or at a particular cost as part of a subscription service.

(ii) **Must Indicate Charge/s:**

The advertisement must indicate:

- (a) The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- (b) The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- (c) Whether, in addition to the periodic subscription charges in (a) & (b) above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement. **[See (iii) below]**

This indication must include the potential and cost of any (additional) bearer charges.

(iii) **Must Indicate Cost Of Any (Additional) Per-Content Access**

If in addition to a periodic subscription charge the consumer could additionally be charged on a per-access basis for access to any particular service, Content or class of Content on the advertisement within the subscription period and terms, then the advertiser must make it clear to the consumer that access this Content or service will, over and above the periodic subscription cost, incur additional charges per Content or service access.

The periodic subscription cost, the frequency of the periodic charge, and where applicable, the additional access cost must all be displayed clearly and TOGETHER, in a position immediately above, below, or to the side of the Content, service, or class of Content. There must in particular be an indication whether bearer charges are included or not in the access cost.

- [See also '**BEARER CHARGES**' above)

(iv) **Must Differentiate Clearly Between Multiple Subscription Types**

If in any advertisement there may exist the possibility to subscribe to a number of individual subscription services which would ordinarily each carry a separate but additional subscription charge and associated charging frequency or additional per-Content access charge, then this possibility of the consumer being charged at multiple prices and charging frequency must be clearly indicated.

(v) **Must clearly Differentiate Between Non-subscription and subscription Types if both available in the same advertisement**

ADDITIONAL BACKGROUND NOTES TO SUBSCRIPTION SERVICES:

Any request to be subscribed to a subscription service must be an **INDEPENDENT TRANSACTION** (see s11.1.2 of v3.2 of the WASPA Code of Conduct). Hence subscribers cannot be subscribed to a subscription service through having requested specific Content, or having being made to believe by a (practically) confusing ad design that they are requesting Content on a once-off (non-subscription) basis.

Confusion by consumers may arise in cases where a single advert may indicate the availability of Content to users (usually on a network that has not enabled subscription services) on a once-off basis, as well as on a subscription basis (to users on a network that has enabled subscription services), even though the subscription and non-subscription services may be on a different number range.

If confusing, this may create the scenario where the consumer lacks a specific intention of subscribing to a service (s11.1.2).

To avoid this scenario, advertisers must avoid advertising material designs where subscription service access can be confused with non-subscription services for the same or same type of Content in the same ad. Unless this distinction is made clear, the non-subscription portion of an ad which has as its center the requesting of specific Content (on a once-off basis to users on a network that does not have subscription services) may have the effect of (possibly inadvertently) **breaching** the 'independent transaction' criteria of the subscription portion of the code of conduct (See also s11.1.4 of v3.2 of the Code of Conduct)

10.2.16 **TECHNICAL CONDITIONS FOR ACCESS**: Indicate which users and/or phones can access services

- The display text must indicate whether the service can only be accessed by:
 - Phones with any particular technical specification(s)
 - Any particular time period [See also "**AVAILABILITY OF SERVICES/CONTENT**" above]
 - Any particular bearers [See also "**BEARER CHARGES**" above]
 - Any particular mobile operator networks [See also "**NETWORK COMPATIBILITY**" above]
 - Any particular mobile operator subscription types [See "also **NETWORK COMPATIBILITY**" above]

However, because there are numerous phones on the market each with different technical specifications, it may be impractical to list all these handsets in media which is non-permanent (eg TV/Radio). These must however be shown in permanent media (eg Web/Print)

10.2.17 **TOTAL ACCESS REQUIREMENTS**

For SMSs: Indicate Number Of SMSs required for full access to Content or for registration to allow full use of the advertised service.

For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper // Include possibility of bearer charges if applicable.

10.2.18 **USSD ACCESS**: Show Initial USSD Access Charges and Minimum Access times (if over 90 seconds)

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

10.2.19 **VAS/PREMIUM RATES**: Indicate That Free Minutes/SMSs Do Not Apply

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

10.2.20 **VAT**: All prices must include VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

Best Practice Suggestion:

Display Text: "All prices include VAT."

11 SMS & MMS offers

11.1 SCOPE

Applies to all SMS and MMS's to the general public where Access Channels are displayed.

While cognizant of the limited space in an SMS, senders must nonetheless abide by the General Terms.

11.2 OBLIGATORY COMPONENTS:

11.2.1 Text clearly Showing Access Cost and T&C for each service or Content type offered.

11.2.2 The opt-out facility may not utilize any PSMS Access Codes beyond R1 in total or may not use any premium rated phone or fax numbers whatsoever. Any voice-based opt-out facility must not be more than 120-seconds in total length.

11.2.3 The sender must within 10 business days provide the recipient with details or how the sender obtained the recipients cellphone number, when such details are requested by the recipient. The details provided to the consumer must be specific. Thus, a response that indicates the details were obtained eg "from a database" is not specific.

11.2.4 Contact details of the sender are obligatory. The contact details must not use any premium rated fax, PSMS, USSD, WAP, or IVR lines. A web site address is the preferred method.

11.3 TEXT DISPLAY

11.3.1 Display Text with full pricing information must be displayed on the SMS/MMS

11.3.2 The SMS must contain contact details of the sender, preferably a web site address

11.3.3 If the recipient of the email requests to the sender that the sender provide details of how the sender obtained the recipients email address, it is a legal requirement according to s42(b) of the ECT Act 2002 that this information be provided.

11.4 ADULT SERVICES [See also Age-Restricted Services]: If the ads used to advertise any Adult Content *themselves* contain Adult Content, these ads are restricted to Adult Media // Ads referring to any Adult Content are restricted under certain conditions // An age verification system must be used for access to any Adult Content. // A warning that users must be 18 years or older to use a service must be shown

- **Advertisements Containing Adult Content (Images/Words/Sounds):**

In respect of the format and design of advertisements which are used to advertise Adult Content Services, if the advertisements *themselves* contain visual images and/or words or phrases that constitute or depict sexual conduct as is defined in the Films and Publications Act 65 of 1996, then these advertisements may only be sent to users who have been confirmed by a AVS as being adults. This restriction applies even if 'stars,' black strips or other attempts at direct visual blocking or disguising of any sexual conduct or explicit nudity are used in an advertisement.

- **Advertisements With References To Adult Content:**

In respect of an advertisement that contains references to Content Services, where that Content constitutes or depicts sexual conduct as defined in the Films and Publications Act 65, **but** where the advertisement itself for that Content does not constitute or depict sexual conduct as defined in the Films and Publications Act 65, then advertisements that so contain references to the (explicit) Content *may* be placed in any media, provided that:

- (a) An Adult Verification System is in place for access to that Content or service, **AND THAT**
- (b) abides by any advertising rules set by the owner or controller of that particular media, **AND**
 - conforms to any rulings issued by the ASASA in respect of that particular type of advertisement and media, **AND**
 - conforms to any similar rulings by the WASPA Adjudicator or WASPA Appeals Panel in respect of that particular type of advertisement and media, **AND WHICH**
 - conforms to any particular rules set by any mobile operator in respect of use of that Access Channel

- Any advertisement that has reference to Content or services that are legally restricted to use only by Adults must indicate that it is for Adults only and/or that verification of the user's age may be required.

- Abbreviations to indicate the Adult restriction are allowed (eg '18' or '18+' may be used).

11.5 Age-Restricted Services Indicate If Age-Restricted

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services - or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.

Examples of Age-Restricted Services (non-exhaustive list):

- Gambling Services
- Contact-type services where Children may potentially come into contact with Adults masquerading as Children
- Adult Content
- Dating Services
- Content that does not necessarily fit the definition of Adult Content, but which may contain images, audio or text that is obscene or otherwise unsuitable for access and consumption by Children
- Competitions with Age Restrictions

Abbreviations to indicate the Age Restriction are allowed (eg '18' or '18+' may be used).

11.6 AVAILABILITY OF CONTENT/SERVICES: Indicate any restrictions

If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Example: "Live chat not available between 01h00 and 07h00"

11.7 BEARER REQUIREMENTS & CHARGES: Indicate need for and possibility of additional bearer charges eg WAP

If any additional bearers (eg WAP and/or GPRS) are required for full access to the advertised service/Content, and where charges will be incurred by a user over and above the cost of the Content or service offered by the advertiser, then the display text in both the body of the advertisement as well as in the T&C must indicate that additional bearer charges may apply.

eg "R10/Game + WAP charges"

- o [See also '**PRICING**' below]
- o [See also '**TOTAL ACCESS REQUIREMENTS**' below]

11.8 **COMPETITIONS:** Indicate If Prize Award is Conditional // Must have and show a closing date
If Conditional

(**Note:** This section is not meant to be an exhaustive overview of any possible permutation of competition types. The general guiding principles remain however)

- Promotional material must clearly state any information which is likely to affect a decision to participate, including:
 - o the closing date;
 - o any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - o an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
 - o any significant age, geographic, or other eligibility restrictions;
 - o any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.
 - o any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize

- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.

- Adverts for Competitions must show a specific closing date, except where there are instant prize-winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.

- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text

- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.

- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.

- All correct entries must have the same chance of winning.
- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.
- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

11.9

CONTACT DETAILS: Provide web site address AND helpline number/shortcode // Advertisers must include a helpline number or a working web site address that has direct applicability and linkage to the advertiser

- Note the general rule in v3.2 of the WASPA Code Of Conduct that a Premium Rated SMS number used as a contact number for the advertiser, or as a helpline, or for unsubscribing from a service **may not exceed R1 in total.**

11.10

CONTACT-TYPE SERVICES: Indicate If Any restrictions apply to access or use // Indicate if multiple registration or other steps required before full use of advertised service is possible // Indicate Adult and/or Age-Restricted nature of the service if advertised as having sexual content or ordinarily unsuitable for access and use by children // Use AVS if service has Adult Content as defined and/or if Age-Restricted // Indicate source and unsubscribe facility if no contact for more than 10 days

- If a Contact-type service is advertised as containing sexual content or is advertised as having content that, ordinarily, would be unsuitable for children, then advertisements for that service must indicate that it is for use by Adults only.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]
- If a Contact-type service is advertised as containing sexual content, then an **Adult Verification System** must be used for registration of new users to that Contact-type service.
 - [See also "**AGE RESTRICTED SERVICES**"]
 - [See also "**ADULT-TYPE SERVICES**"]
 - [See also Definition of "**ADULT**" above]
 - [See also Definition of "**ADULT CONTENT**" above]

- Advertisements for any interactive chat, flirt, dating or similar Contact-type services (whether anonymous or not) must indicate whether any restrictions apply to its full use. Eg Time of day, age.
 - [See also “**AVAILABILITY OF CONTENT/SERVICES**” above]
 - [See also Definition of “**ADULT**” above]

- If a user must first successfully complete multiple steps requiring multiple communications to the service before they are able to fully access or use the service as advertised, then this must be specified in the advertisement.
 - [See also “**TOTAL ACCESS REQUIREMENTS**” below]

- If using SMS as the Access Channel for a Contact-type service, each request for a user to respond to a message sent to a user as part of that service must indicate the price of the reply if the price at any stage of the communication, differs at all from the initial advertised service price.

- If using SMS as the Access Channel for a Contact-type service, and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and no more than 120 seconds if using IVR or any other time-based method as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- If a Contact-type service using IVR as the Access Channel requires the user to first listen to a (recorded) audio before they can access the actual person, service or facility otherwise so indicated or suggested by the wording or design of the advertisement, and this waiting time **exceeds 60 seconds** from the start of the IVR call, then the minimum ‘waiting’ time must be also indicated.

- [See also “**TOTAL ACCESS REQUIREMENTS**” below”]

11.11

DISTRIBUTION LISTS: Indicate If Consumer Automatically Placed On List. // No sexual or sexually suggestive Content in list if the list recipient does not request or expect it. // Provide reasonable opt-out procedure // Sender must have direct and recent association with recipient

- If by requesting any Content or accessing a service, the consumer so doing is automatically placed on a distribution list that will continuously or periodically send that consumer further related or unrelated communications from that Content provider or any other Content provider or advertiser, then the T&C text must explicitly specify in the T&C that updates will be sent until cancelled. *[Note that v3.2 of the Code of Conduct specifies that the sender must have a “Direct & Recent” association with the recipient].*

Best Practice Suggestion

Display text: “Updates sent until cancelled”

- 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.
- The sender to a distribution list must indicate the cost and T&C of access to a service in each and every communication, even the receiver was previously a user of that service. No assumption as to the knowledge of the recipient in respect of the costs and T&C of a service must be made for users who had previously used the service.
- If using SMS as the Access Channel and where has been no communication to a user of that service from either the general participants in that service or the controllers of the service for a minimum of ten (10) calendar days, then any further communication to that user must, at the first communication to that user after the tenth (10th) day, must indicate who the service is provided by **and** how the user may unsubscribe from the service, and the cost thereof.

The cost of this unsubscribe process may not exceed a total of R1 if using SMS as the unsubscribe medium and may not be more than 120 seconds if using IVR or any other voice-based system as the unsubscribe medium.

[This provision will only come into effect on 1 February 2006 to allow for reengineering of IT systems]

- **Opt-Out:** Any further communication with a consumer in a distribution list must contain a relatively easy and unambiguous method for immediately opting-out of any further communications from that distribution list:
 - **Fax:** No premium rated fax lines [eg 0866 fax-2-email type numbers] may be used for the mandatory opt-out procedure.
 - **SMS:** The total cost of opting-out from any distribution list using a premium rated SMSs Access Channel may not exceed R1 total cost
 - [See also “**TOTAL ACCESS REQUIREMENTS**” below]
 - [See also v3.2 of “**WASPA CODE OF CONDUCT**”]
 - **IVR (or any other time-based method):** Where applicable, any IVR systems used for any opt-out procedure must be designed so that a reasonable user will not need to exceed 120 seconds (from the start of the IVR call or time-based method) for the entire opt-out process.
 - [See also “**PRICING**” below]
 - [See also “**TOTAL ACCESS REQUIREMENTS**” below]

11.12 **FAILED REQUESTS:** Indicate If Failed Requests Billed

- If for any reason the service bills for incorrect, failed, or unsuccessful requests, then the T&C text must display this (if applicable)

Best Practice Suggestion:

Display text: “Errors billed”

11.13 **LIVE SERVICES:** [In relation to live Contact-type services only] Advertisements may not use the word ‘live’ to describe systems where a recording or an automated system is used in place of a real-time interaction with a human

- No advertisement may be designed or worded in a manner that may create an expectation by a reasonable person that there is real-time or near-real time communication with a human offered as part of the service, where in fact there is no live real-time or near-real-time interaction whatsoever with a human available as part of that advertised service, or where the real time interaction with the human does not constitute the essence of the service

Eg Recordings that simulate "eavesdropping" on purported conversations between two or more persons do not constitute 'live services'.

- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.
 - [See "**AVAILABILITY OF CONTENT/SERVICES**" above]

11.14 **NETWORK COMPATIBILITY:** Indicate If Services Are Network-dependent // Indicate if subscription-type dependent

- There must be an clear indication in the advertisement detailing which mobile networks the user must have access to for fully access any Content and/or participate in the service offered
- If only contract-only or prepaid-only users have access to the service, this must be indicated

Best Practice Suggestion: **Display text: "XYZNetwork contract users only"**

11.15 **PRICING:** Show component, bearer and total cost // Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised

Overview:

The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.

Background:

Note that the term "Standard Rates Apply" as has in the past been used widely is, according to the definitions supplied by all three mobile networks, an **incorrect** description of IVR and PSMS, as a "**Standard Rate**" is only applicable to use of eg free bundled SMSs/Minutes. The original term was "VAS Standard Rates Apply" which was only applicable to IVR access, but which many over time **incorrectly** abbreviated to "Standard Rates" with purported applicability to for both IVR, PSMS, and Premium Rated USSD Access Channels.

Standard Rate: [see Also definition of Standard Rate in the Definition section]

A Standard Rate is a rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator. No "revenue sharing" applies. Thus, where free/bundled SMSs/Minutes cannot be utilized or where the tariff for an Access Channel differs from the in-bundle tariff for any user pursuant to the terms of conditions of the service agreement that user has with a mobile network operator, then term "**Standard Rate**" may not, from implementation of the Ad Rules, be used under those circumstances.

Instead, the following must be used:

For IVR Lines: "VAS Rates Apply. Free Minutes Do Not Apply"

Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".

Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) if the SMSs/Minutes are not available free or in a bundle.

(a) Bearer Costs:

If additional WAP/GPRS bearer charges may be incurred over and above any other Access Channel costs, the possibility thereof must be indicated.

eg "**2x R5 SMS = Total R10 + WAP Charges**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below]

(b) IVR:

- Any IVR system using a VAS rated Access Channel provided by or through a licensed mobile operator for access to any services or Content must be identified as such, along with a notice that free minutes will not apply.
- If the minimum amount of time the user is required to stay on the line to access the service **exceeds 60 seconds**, then the minimum time a reasonable user would require for access to the advertised service or Content must be indicated.
- The following is an example of component and total cost indications:

Examples:

Correct: "Call 08x-xxx-xxx Now To Vote! VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes."

Incorrect: "Call 08x-xxx-xxx Now To Vote!"

Reason:

- VAS rate nature of the phone number has not been disclosed
- Inability to use free minutes has not been disclosed
- Minimum amount of time to fully access service/Content has not been disclosed

- [See also "**TOTAL ACCESS REQUIREMENTS**" below for more detailed requirements]

(c) **USSD:**

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the potential for any additional costs associated with specific menu selections.
 - [See "**USSD ACCESS**" below]

(d) **SMS:**

- The cost of a single (or component) SMS used for access to a service must be indicated.
- If more than one SMS is required to access the service/Content, then the number of SMSs so required and their individual cost for access must be indicated. The total cost involved in accessing the full service based on the cumulative number of SMSs required must also be disclosed.

For example, if a number of SMSs are required for registration before full access and use of an advertised service becomes available to a user, then the possibility thereof and then the number of required SMSs must be indicated.

Eg "**2x R5 SMS = Total R10 + WAP Charges**"

Eg "**3 x R5 SMSs required for service registration. Total cost R15**"

- [See also "**TOTAL ACCESS REQUIREMENTS**" below for detailed requirements]

11.16 **SUBSCRIPTION SERVICES:** Show Total Subscription Charge, Frequency of Charge, any bearer

charges and any additional charge/s

(i) **Must Use The Words "Subscription Service"**

If the Content provider is providing a continuous, subscription-like or subscription-based service, then the words "Subscription Service" must be prominently displayed at the top section of the advertisement as well as at each Content or service section in the advertisement where various subscription types are displayed.

No acronym, letter (eg "S"), number, abbreviation (eg "Subs"), icon, or any other mark may be used as an alternative to the words "Subscription Service" anywhere in the advertisement when that Content is only available at all and/or at a particular cost as part of a subscription service.

(ii) **Must Indicate Charge/s:**

The advertisement must indicate:

- (a) The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- (b) The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- (c) Whether, in addition to the periodic subscription charges in (a) & (b) above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement. **[See (iii) below]**

This indication must include the potential and cost of any (additional) bearer charges.

(iii) **Must Indicate Cost Of Any (Additional) Per-Content Access**

If in addition to a periodic subscription charge the consumer could additionally be charged on a per-access basis for access to any particular service, Content or class of Content on the advertisement within the subscription period and terms, then the advertiser must make it clear to the consumer that access this Content or service will, over and above the periodic subscription cost, incur additional charges per Content or service access.

The periodic subscription cost, the frequency of the periodic charge, and where applicable, the additional access cost must all be displayed clearly and TOGETHER, in a position immediately above, below, or to the side of the Content, service, or class of Content. There must in particular be an indication whether bearer charges are included or not in the access cost.

- [See also '**BEARER CHARGES**' above)

(iv) Must Differentiate Clearly Between Multiple Subscription Types

If in any advertisement there may exist the possibility to subscribe to a number of individual subscription services which would ordinarily each carry a separate but additional subscription charge and associated charging frequency or additional per-Content access charge, then this possibility of the consumer being charged at multiple prices and charging frequency must be clearly indicated.

(v) Must clearly Differentiate Between Non-subscription and subscription Types if both available in the same advertisement

ADDITIONAL BACKGROUND NOTES TO SUBSCRIPTION SERVICES:

Any request to be subscribed to a subscription service must be an **INDEPENDENT TRANSACTION** (see s11.1.2 of v3.2 of the WASPA Code of Conduct). Hence subscribers cannot be subscribed to a subscription service through having requested specific Content, or having being made to believe by a (practically) confusing ad design that they are requesting Content on a once-off (non-subscription) basis.

Confusion by consumers may arise in cases where a single advert may indicate the availability of Content to users (usually on a network that has not enabled subscription services) on a once-off basis, as well as on a subscription basis (to users on a network that has enabled subscription services), even though the subscription and non-subscription services may be on a different number range.

If confusing, this may create the scenario where the consumer lacks a specific intention of subscribing to a service (s11.1.2).

To avoid this scenario, advertisers must avoid advertising material designs where subscription service access can be confused with non-subscription services for the same or same type of Content in the same ad. Unless this distinction is made clear, the non-subscription portion of an ad which has as its center the requesting of specific Content (on a once-off basis to users on a network that does not have subscription services) may have the effect of (possibly inadvertently) **breaching** the 'independent transaction' criteria of the subscription portion of the code of conduct (See also s11.1.4 of v3.2 of the Code of Conduct)

11.17 **TECHNICAL CONDITIONS FOR ACCESS:** Indicate which users and/or phones can access services

- The display text must indicate whether the service can only be accessed by:
 - Phones with any particular technical specification(s)
 - Any particular time period [See also "**AVAILABILITY OF SERVICES/CONTENT**" above]
 - Any particular bearers [See also "**BEARER CHARGES**" above]
 - Any particular mobile operator networks [See also "**NETWORK COMPATIBILITY**" above]
 - Any particular mobile operator subscription types [See "also **NETWORK COMPATIBILITY**" above]

However, because there are numerous phones on the market each with different technical specifications, it may be impractical to list all these handsets in media which is non-permanent (eg TV/Radio). These must however be shown in permanent media (eg Web/Print)

11.18 **TOTAL ACCESS REQUIREMENTS**

For SMSs: Indicate Number Of SMSs required for full access to Content or for registration to allow full use of the advertised service.

For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper // Include possibility of bearer charges if applicable.

11.19 **USSD ACCESS:** Show Initial USSD Access Charges and Minimum Access times (if over 90 seconds)

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

11.20 **VAS/PREMIUM RATES**: Indicate That Free Minutes/SMSs Do Not Apply

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

11.21 **VAT**: All prices must include VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

Best Practice Suggestion:

Display Text: "All prices include VAT."

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